

# **ATTACHMENT 3**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-	)	
Generation Networks	)	

**DECLARATION OF JOHN HOEHNE**

1. My name is John Hoehne. I serve as Chief Operating Officer at Access One, Inc. I have been with the company for ten years. All functions of the business report to me: Engineering, Operations, Sales, Marketing, HR, Technology Services, Finance, and Legal/Regulatory.

2. Access One offers voice, broadband internet, Unified Communications as a Service (“UCaaS”), and technology infrastructure management services primarily to small and medium-sized businesses (“SMB”) across the country, but most significantly in Illinois, where we are headquartered. In addition to businesses, we also serve non-profit organizations, schools, libraries, and governmental entities.

3. Access One offers a unique combination of services to our customers. We offer traditional internet and voice services, along with management of all the adjacent services, including UCaaS, management of LAN devices, IT helpdesk services, Cloud Infrastructure and hosted services, Disaster Recovery, and Digital Security. Our goal is to provide world-class technology services in an easily consumable way for SMB—so that they can focus on what’s important for their business.

4. Access One also provides wholesale (resale) of its facilities to several Chicago-based telecommunications companies.

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5. Access One uses UNE services to provide last mile transport of telecommunications services to its customers. Those services are provided over DS1 and DS3 UNE loops and range from 1.5 Mbps dedicated internet access and traditional or integrated access PRI to high-bandwidth Ethernet over Copper (EoC) via unbundled DS0s. Approximately 2500 of our customer locations are served in whole or in part over UNEs. These UNE facilities are connected to our transport network, which connects Incumbent Local Exchange Carrier (“ILEC”) central offices to Access One data centers. Access One also resells fiber and coax-based Ethernet services to new and existing clients.

6. Using DS0 UNEs as components of an EoC solution, Access One offers broadband speeds to enterprise customers of up to 100 Mbps download and 100 Mbps upload. EoC is a crucial product for small businesses, because it provides the high-bandwidth capacity and reliability necessary to rely upon cloud-based applications, without the high costs of a fiber deployment. For the foreseeable future, EoC will be the most (often only) cost-effective way for small business in many areas to use the Internet in a fully modern way—meaning reliance upon cloud-based applications, fulsome disaster recovery, and security.

7. The use of UNEs enables the Company to provide end-to-end technology infrastructure management for SMB—essentially delivering a world-class, enterprise-grade experience to vastly smaller organizations. UNE services allow the Company to cost-effectively build national private networks for its customers, and to provide real competition in underserved urban, suburban, and rural areas where, without UNEs, there would be no competitor to the ILEC. The reach provided by cost-effective access to UNE DS1s/DS3s is particularly important for businesses with locations that span multiple ILEC footprints, and significant security/compliance needs. Without UNE services, the secure networks that these businesses require will become substantially more expensive, and potentially unavailable as a truly private network. The need for

the competition provided by UNE DS0s to enable EoC services is crucial to SMB, because of a gap in ILEC offerings for SMB. At the low end, there are DSL-based ILEC services that come with a level of support that isn't suitable to run an actual business. At the other end of the spectrum, are high-priced fiber services, that can include six-figure build-out costs (or simply be unavailable). EoC services, provided by Access One and other CLECs, transported by UNE DS0s, are the right combination of speed and price for SMB, and are supported with the care and attention required by business customers.

8. An example of this is Access One customer, Human Resource Development Incorporated ("HRDI"), a social services organization with 26 locations across the country. HRDI serves the addicted and mentally ill, and provides social and family services to poor populations. It has locations both urban and rural, many of which are halfway houses with lower bandwidth needs, but network needs all the same. It is a cost-conscious operation. Access One was able to construct a private network for HRDI that met its needs for voice service transport, MPLS capability and reliability, and at a price the organization could afford. The network was highly reliant on UNE facilities—from places like Dothan, Alabama to underserved areas of Chicago's south and west sides. UNE facilities have also enabled Access One to meet the cost and service needs of Catholic Charities in northern IL. The Company provides traditional voice services to 28 Chicago locations for Catholic Charities, often in urban areas where CLECs are the only competitive choice for traditional communications services. The UNE Forbearance Petition being advanced by USTelecom ("USTA", AT&T + Verizon) would have a substantial impact not just in rural areas, but also urban and suburban areas where last mile competition has not emerged.

9. The loss of access to UNEs would affect the Company's ability to continue to provide service. Specifically, price increases would need to be passed through to customers. Access One is not in position to absorb the level of price increase incurred in a move from a



competitive, UNE-based market to a monopolistic (duopolistic in some areas), special access-based market. If the only available last mile facilities available are special access, it is conceivable that the ILEC could undercut special access rates (by offering the same or higher rates to wholesale than retail), effectively ending competition of any type for these services. It is likely that companies similarly situated to Access One would fail within months of the implementation of UNE forbearance, causing notable job losses in the CLEC industry (possibly all of the jobs in the CLEC industry, which was born of the Telecom Act of 1996, which the Petition seeks to overturn). There may be some consideration that AT&T and its cohort will add jobs in broadband in the wake of the Petition's termination of competition. On a net basis, and in the US, this is unlikely: AT&T and its peers employ people to act as account management for the CLEC industry that this Petition would decimate. Post-petition, they would need fewer of those people. Today, for fiber optic services leased from AT&T, my AT&T project management team is based in Eastern Europe. So it seems that AT&T would need fewer US-based account management people for CLECs/wholesalers, but may add some project management staff in Eastern Europe. The actual result of the Petition will only be substantial price increases and job losses. The market price of the most basic services could increase as much as 300% from today's competitive market rates (based on a CLEC-provided T1 PRI including a mileage component, at special access rates). The same is true of POTS lines—today's CLEC prices for POTS will move from less than \$50, to \$125/line or more. Businesses will not stand for these types of increases, causing massive, unnecessary disruption in the market. Based on experience with ILEC fiber services, the expectation must be that the ILECs will simply put their competition (CLECs) out of business by pricing wholesale substantially greater than retail. With the level of price increase the petition would cause, there would be a "race to the exits" for TDM services for SMB—the scope of the exodus would be much larger than what the ILECs could handle in a reasonable time frame, and in

most instances, there wouldn't be a realistic competitive option for SMB. Progress from TDM to next-generation networks continues to accelerate—there is no need to artificially end-date this market-driven process.

10. DS0 copper loops, and in particular the xDSL-conditioned copper loop, are critical inputs to the Company's network. Unlike a commercial offering such as a special access service, DS0 copper loops do not include ILEC electronics that determine what services can be offered over the loop. Rather, the Company can deploy its own electronics on either end of the DS0 loop. In this way, the Company can customize and control the services provided over the loop, including service quality and security. Many of our customers, including SMB, health care providers, banking customers, and governmental entities, have specific service requirements (in terms of affordable, high-bandwidth, private-network solutions) that Access One could not meet without Ethernet over Copper (using unbundled DS0s, which would be forborne). Cable internet services are often touted as a replacement for EoC, however, the response times of the cable companies to an outage are not suitable to businesses that are reliant on cloud services. If a customer's full suite of applications is hosted in the cloud and its cable-based internet connection is lost, it can be a day or longer until service is returned. For that period, the customer is essentially unable to do business. This is not a workable situation for most businesses. Access One answers each call with a US-based human being, prioritizes its workload based on issue severity, and strives for closure in two hours. We provide a vastly different level of service and sense of urgency than SMBs experience with ILECs or cable companies.

11. For other UNE loops such as DS1s and DS3s, commercial offerings like special access services or other business data services may be available. However, they are substantially more expensive. In Illinois, where Access One would be most affected, UNE DS1 tails sell for a maximum of \$54, without a service term. A monthly term special access DS1 service costs \$250



to \$320, depending upon the zone of the service address. Access One would pass on 100% of the increase in cost to customers, which would represent an increase in the market price of service of up to 150%. Similarly, DS1 and DS3 transport services may be available, but at a substantially higher cost. Unbundled DS1 interoffice transport is combined with UNE loops to provide Enhanced Extended Lines, or “EELs”—the loss of UNE transport would eliminate the availability of EELs, which Access One uses to reach customers at wire centers where Access One does not yet have equipment. In Illinois and the rest of the Midwest, AT&T cost increases from UNE to Special Access/BDS pricing (on a Month-to-Month basis) is roughly 1000% higher (the increase in transport costs for 10 miles of interoffice DS1 transport goes from \$54 (2 CMTs @ \$17 each, plus 10 interoffice miles at \$2/mile) to about \$520, depending on zone). Access One would clearly be forced to attempt to pass through the price increase to its customers. Keep in mind that this is only the increase in transport cost—the loop increase described above would be additive—meaning the total cost increase could be \$750 for a service that today sells for \$200. This price increase would disproportionately affect those with the fewest competitive options—anyone with the ability to change to a non-TDM (or at least non-CLEC) service would clearly do so.

12. The loss of UNEs would also have a serious negative impact on our customers. All businesses using TDM based services (millions of SMBs) would face substantial rate increases, starting with the approval of the Petition, and culminating in full forbearance, at which point, market forces and a return to monopolistic competition will increase rates even further (as described in detail for UNE DS1 services, above). Resale POTS prices would triple, or more.

13. Many of Access One’s business and non-profit customers would be forced back to AT&T/Incumbent services, because there is no competitive provider of access service to their location, other than CLECs (whose services would disappear or become unworkably expensive upon forbearance).

14. Social services, public, and educational institutions would suffer the most.

Particularly hard hit would be Access One customers like Catholic Charities, Lutheran Child and Family Services, Mooseheart Child City (orphanage), Oak St. Health, Loretto Hospital, and CGH Hospital, several of which are located in underserved urban areas and would have no choice in communications were it not for CLEC/UNE competition. Our customers also include school districts: Cass, Waukegan, Lake Park, and Libertyville Public School District, all locations for the Noble Network of Charter Schools, and individual schools, including high schools like Hersey, Prospect, Rolling Meadows, Buffalo Grove, and St. Viator. We also serve public libraries via UNE and resale services, including Joliet, Elk Grove, Homewood, Mokena, St. Charles, Lake Bluff, Highland Park, Frankfort, and Lisle. Access One also serves many offices of local government via UNE services.

15. Access One is selected by non-profits, government, and educational institutions because we provide exceptional value—the foremost example of that value is the dedicated account manager assigned to their accounts. Organizations of this type can't always afford to staff all of the technology personnel that they may need. They appreciate access to our account management and technical staff for guidance on their technology infrastructure, whether a part of their core, UNE or resale-related service or not. They also appreciate that Access One will do whatever it takes to meet their needs. Custom-tailored solutions are one of our distinct advantages over ILEC competition. Our customers want to work with a company that is part of their community—we contribute to their charities, join them at their golf-outings or 5k runs, and we “drop by” when we're near their locations to check on their service experience. Though competitively priced, Access One is rarely the least expensive option—we're selected because our customers want custom solutions and personalized attention.



16. For some customers, the transmission of sensitive data would be affected. Multi-location, multi-state networks are a core competency of Access One. To tie together far-flung locations, Access One often uses UNE last-mile services to build a network that touches the footprint of multiple incumbents, using multiple access technologies, depending upon what is available at that location. Unfortunately, for many locations, only TDM/UNE access is available at a price point that meets the customer's needs. The USTA Petition will force customers to choose between stranded locations and a hodge-podge of carriers, or paying exorbitant prices to CLECs to manage their networks (due to the elimination of UNE services).

17. One item that is lost in the Petition is that competitive access to business (and consumer) locations is essentially on an address by address basis. The level of competition for telecom access services on a few blocks occupied by skyscrapers doesn't have any bearing on the level of competition in other parts of a city or its surrounding suburbs. In the past, a more thoughtful method for forbearance had been pursued, by measurement of competitive access within a wire center's service area.

18. The ability to offer Resale services (prospectively forborne by the Petition) has been a great asset to our customers, especially those using 'next generation' services.

a. Resale POTS lines—really the base unit of telecommunications—are still an important service for two reasons:

- i. 1) they supply their own power, and 2) they are more reliable than using an ATA for the transit of analog signals over an IP connection. That POTS lines supply their own power is crucial to how they are used in business today. IP communications services do not supply power. In the event of a power failure, IP communications are useless. POTS lines, however, will continue to operate, which is critical for elevator

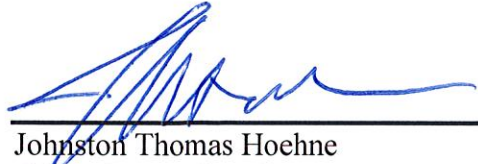
and alarm lines. Many small businesses also use POTS lines as a failsafe against issues that arise with their primary, IP-based phone services (to ensure the ability to receive customer calls, or call 911 in the event of a power outage).

- ii. IP-based connections that connect to an ATA for the conversion and transmission of an analog signal (primarily fax machines), offer a substandard experience. Many businesses—especially in the legal and healthcare verticals—rely heavily on faxing. Truly reliable faxing for high-volume users over an IP connection does not exist. For these customers, POTS/TDM fax lines are essential.

b. Access One's retail rate for a fax line in Illinois is \$45. AT&T's tariff price for the same service is \$125. Over the last roughly six years, Access One's cost for a POTS line in IL has increased around 400%. At this point, any business that can use a different option does so (our UCaaS solutions are about ½ the price/line, including far more functionality). Until AT&T actually begins to retire its copper network in a thoughtful and incremental way, why should the FCC move to abruptly eliminate choice and increase prices on businesses for whom there is no equivalent technological service and no viable wholesale alternative? AT&T and Verizon have taken full advantage of section 271 of the Act. Their entry into long-distance services (coupled with their wireless assets) essentially ended any consumer-driven competition for LD. Now that they've successfully taken over that market, they seek to eliminate the requirements of section 271 that were intended to ensure some level of competition for local service—they will have their cake and eat it, too.

**REDACTED – FOR PUBLIC INSPECTION**

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.



Johnston Thomas Hoehne  
COO, Access One, Inc.

8/3/18

Date



# **ATTACHMENT 4**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF DOUGLAS DENNEY**

1. My name is Douglas Denney. I serve as Vice President, Costs & Policy at Allstream Business US, LLC (“Allstream”), a wholly owned subsidiary of Zayo Group, LLC (“Zayo”). I have been with the company for 14 years. I am in charge of the legal department at Allstream. My responsibilities, among other things, include negotiating interconnection agreements with incumbent local exchange carriers (“ILEC”). I also participated in most of the unbundled network element (“UNE”) cost cases before the state public utility commissions in the CenturyLink Bell operating territory. I acted as an expert witness on the cost models presented in these cases and led the negotiations that led to the negotiated settlements establishing rates in the most recent two UNE cost cases in Minnesota and Colorado.<sup>1</sup>

2. Allstream offers voice and broadband services to approximately 60,000 small and medium-sized business customer locations in primarily 11 western states.<sup>2</sup> These customers include commercial businesses as well as schools, health care providers, and government agencies including airports and military locations. Allstream serves customers across the United

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<sup>1</sup> MN PUC Docket No. P-421/CI-01-1375 and CO PUC Docket No. 07A-211T.

<sup>2</sup> Allstream serves primarily in the CenturyLink territory in Arizona, Colorado, Idaho, Minnesota, Montana, North Dakota, Oregon, Utah, and Washington; the AT&T territory in California and Nevada; and the Frontier territory in Oregon and Washington.

States, but is primarily concentrated in the western United States. The table below shows a breakdown of the locations served by Allstream as well as the number of cities served by Allstream in each state.

<b>Allstream Customer Distribution</b>		
<b>State</b>	<b>% of Customer Locations</b>	<b>Number of Cities/Towns with customers</b>
Arizona	5%	66
California	4%	213
Colorado	9%	107
Idaho	3%	52
Minnesota	18%	286
Montana	1%	22
North Dakota	1%	26
Nevada	2%	30
Oregon	20%	220
Utah	9%	112
Washington	25%	209
Other *	1%	466
Total		1,809
* Allstream serves customers in all 50 states plus DC.		

3. Allstream serves some of the larger urban areas in the west, and serves more than a thousand customer locations in Phoenix, Denver, Boise, Minneapolis, St. Paul, Portland, Salt Lake City, Bellevue, Seattle, and Vancouver. Allstream serves a significant number of customer locations in Sacramento, Billings, Fargo / Moorhead, Reno, Beaverton, Eugene, Salem, Kent, and Spokane. Allstream is not just concentrated in the larger and medium sized cities and towns in the West, but serves a wide variety of communities. The table below shows the number of cities served by various quantities of customer locations.



<b>Customer Locations</b>	<b>Cities / Towns Served</b>
Greater than 1000	10
between 500 and 1000	9
between 250 and 500	35
between 100 and 250	58
between 50 and 100	55
between 25 and 50	74
less than 25	1568

4. Allstream’s communications technologies include a range of innovative, highly scalable IP, cloud, voice, and data solutions that help organizations communicate and collaborate more efficiently and profitably. Allstream’s product set includes the latest in SIP and Cloud-based Unified Communications as well as more traditional voice and scalable data services using a variety of trusted technologies. Allstream’s broadband offerings include speeds between 1 Mbps up to 10 Gbps.

5. Where and when possible, Allstream uses the fiber facilities of Zayo to provide service to its customers. In other areas, Allstream uses UNEs from the incumbent local exchange carriers (“ILECs”) to provide service. Specifically, Allstream purchases 2-wire copper loops, sometimes referred to as DS0 loops, DS1 loops, DS1 and DS3 Enhanced Extended Loops (“EELs”), DS1 interoffice transport, DS3 interoffice transport, or dark fiber interoffice transport. Allstream also purchases a handful of DS3 loops.

6. For example, using UNE 2-wire copper loops,<sup>3</sup> sometimes referred to as DS0 loops, we offer a symmetrical 60 Mbps service with unlimited data usage for \$360-\$570 per depending on the term of the contract. Allstream will use UNE DS1s to provide Ethernet services to customers when the company is not able to use 2-wire copper loops either because

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<sup>3</sup> Specifically, Allstream purchases 2-wire xDSL conditioned loops.

copper is not available because the loop is a hybrid loop (the loop contains some fiber) or the copper loop length is too long to support digital services.

7. Allstream primarily uses UNEs as the last mile connection to customer premises when other, cost effective access is not available. Fiber access reaches only a small portion of our 60,000 end user customers and Allstream serves only approximately 3,000 customers using its parent company fiber. Allstream also uses interoffice transport UNEs, including unbundled dark fiber, when its own facilities are not available, to carry voice and data traffic to centralized switches or its data network. At present, approximately 95% of our customers are served in whole or in part over UNEs.

ILEC	2-wire loop	UNE DS1	UNE DS3	Resale
AT&T	8,293	1,485		138
CENTURYLINK	90,427	14,444	23	616
FRONTIER	9,490	1,531	1	486
Total	108,210	17,460	24	1,240

8. The use of UNEs, especially unbundled loops allows Allstream to access end user customers and provide differentiated products and services. Allstream uses UNEs to access end users where alternative, cost effective access is not available. Alternative access methods may not exist because the incumbent is the only carrier providing services to the end user location, or the customer's service requirements do not justify higher cost, higher bandwidth solutions.

9. Throughout its history, Allstream has used its customer base, most of which was initially acquired through the use of UNEs, to justify the build of its backbone network. In addition, sufficient demand at an end user location can also justify building fiber access to that location. Broad access to UNEs, both loops and transport, has allowed Allstream to enter new markets without having a prior customer base. UNEs uniquely aid the ability to invest in fiber facilities because Allstream can begin to serve the customer, then build the fiber, and, UNEs

unlike business data services, we are not required to make extended term commitments beyond the period needed to build fiber, which lowers the effective cost of fiber deployment. Allstream employed this strategy in both urban and suburban communities.

10. For example, in some small communities in Oregon, such as Corvallis and Oregon City, Allstream leased collocation space from CenturyLink and used UNEs to build out to its customer base. Allstream then built fiber to certain locations within that foot-print and brought that fiber back to its leased collocation space, which it then aggregated with other traffic to send to its backbone network. As a result of this activity Allstream became a fiber-based collocater in these wire centers changing the Tier status in these wire centers. As a result of the fiber builds by Allstream, CenturyLink was able to obtain relief from providing certain UNE transport circuits under the Triennial Review Remand Order criteria.<sup>4</sup>

11. The loss of access to UNEs would affect Allstream's ability to continue to provide service and would negatively impact nearly all of our customers. First, most of Allstream's loop purchases are for 2-wire loops. There is no wholesale equivalent offering from the ILECs for this service and thus it is unclear whether a commercial product will be available, what the rates will be for this product, and what terms and conditions apply to a commercial product. For example, in 2011 Allstream (f/k/a Integra Telecom) negotiated what is referred to as the "xDSL Amendment" to its interconnection agreement with CenturyLink. This agreement provided, for the first time, specific and clear requirements to condition, provision, test, and repair loops specific to standards required for providing broadband services over these 2-wire

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<sup>4</sup> In the Matter of QWEST CORPORATION d/b/a CENTURYLINK QC Petition for Commission Approval of 2017 Addition to Non-Impaired Wire Center List, OPUC Docket UM 1891, Order 18-238, June 27, 2017.



loops. Prior to this amendment CenturyLink took the position that it was only required to meet voice service quality levels on 2-wire loops.

12. Second, Allstream uses DS1 and DS3 loops when xDSL-conditioned 2-wire loops are not available, or are too long to support high speed data service to the customer. Allstream also uses UNE transport in conjunction with DS1 and DS3 loops, as EELs, to serve some of these customers.

13. Third, the commercial equivalent to DS1 and DS3 loops and transport are the traditional special access services, which have since been deregulated to a significant degree. These services are priced at multiples above the prices for unbundled access. The table below compares DS1 UNE and DS1 private line rates offered by CenturyLink on a month-to-month basis. As can be seen by the table rates for private line services are significantly higher than the rates for UNE DS1s and DS3s.

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CenturyLink UNE and Private Line Rate Comparison							
DS1	UNE Loop	Private Line Channel Term	Percent Increase	UNE Transport (8 miles)	Private Line Transport (8 miles)	Percent Increase	Notes
Arizona	\$ 67.39	\$ 139.35	107%	\$ 41.18	\$ 198.40	382%	UNE Zone 1, PL Monthly Zone 1
Colorado	\$ 62.25	\$ 149.61	140%	\$ 36.91	\$ 214.60	481%	UNE Zone 2, PL Monthly Zone 1
Idaho	\$ 86.48	\$ 164.30	90%	\$ 62.03	\$ 209.20	237%	UNE Zone 1, PL Monthly Zone 1
Minnesota	\$ 33.23	\$ 154.74	366%	\$ 100.65	\$ 209.20	108%	UNE Zone 2, PL Monthly Zone 1
Montana	\$ 96.46	\$ 164.30	70%	\$ 58.94	\$ 209.20	255%	UNE rate not deaveraged, PL Monthly Zone 1
North Dakota	\$ 74.88	\$ 153.60	105%	\$ 60.12	\$ 198.40	230%	UNE Zone 1, PL Monthly Zone 1
Oregon	\$ 87.37	\$ 144.48	65%	\$ 41.86	\$ 198.40	374%	UNE rate not deaveraged, PL Monthly Zone 1
Utah	\$ 69.76	\$ 153.60	120%	\$ 45.72	\$ 198.40	334%	UNE Zone 1, PL Monthly Non-Plan
Washington	\$ 68.86	\$ 144.48	110%	\$ 37.20	\$ 203.80	448%	UNE Zone 1, PL Monthly Zone 1
SA Rates from 7.11.4: <a href="https://www.centurylink.com/tariffs/fcc_cloc_acc_isg_no_11_part1.pdf">https://www.centurylink.com/tariffs/fcc_cloc_acc_isg_no_11_part1.pdf</a>							
UNE Rates from Exhibit A 9.2.3.3 and 9.6.2: <a href="http://www.centurylink.com/wholesale/clecs/nta.html">http://www.centurylink.com/wholesale/clecs/nta.html</a>							
DS3	UNE Loop	Private Line Channel Term	Percent Increase	UNE Transport (8 miles)	Private Line Transport (8 miles)	Percent Increase	Notes
Arizona	\$ 739.07	\$ 1,896.00	157%	\$ 349.73	\$ 1,082.80	210%	UNE Zone 1, PL Monthly Zone 1
Colorado	\$ 662.16	\$ 2,124.00	221%	\$ 477.13	\$ 1,268.20	166%	UNE Zone 2, PL Monthly Zone 1
Idaho	\$ 941.95	\$ 2,048.00	117%	\$ 671.17	\$ 1,206.40	80%	UNE Zone 1, PL Monthly Zone 1
Minnesota	\$ 605.96	\$ 2,048.00	238%	\$ 392.13	\$ 1,206.40	208%	UNE Zone 2, PL Monthly Zone 1
Montana	\$ 1,201.89	\$ 2,048.00	70%	\$ 348.22	\$ 1,206.40	246%	UNE rate not deaveraged, PL Monthly Zone 1
North Dakota	\$ 748.54	\$ 1,896.00	153%	\$ 468.93	\$ 1,082.80	131%	UNE Zone 1, PL Monthly Zone 1
Oregon	\$ 363.42	\$ 1,896.00	422%	\$ 332.73	\$ 1,082.80	225%	UNE rate not deaveraged, PL Monthly Zone 1
Utah	\$ 574.95	\$ 1,896.00	230%	\$ 609.51	\$ 1,082.80	78%	UNE Zone 1, PL Monthly Non-Plan
Washington	\$ 745.93	\$ 1,972.00	164%	\$ 309.52	\$ 1,144.60	270%	UNE Zone 1, PL Monthly Zone 1
SA Rates from 7.12.4: <a href="https://www.centurylink.com/tariffs/fcc_cloc_acc_isg_no_11_part1.pdf">https://www.centurylink.com/tariffs/fcc_cloc_acc_isg_no_11_part1.pdf</a>							
UNE Rates from Exhibit A 9.2.3.4 and 9.6.3: <a href="http://www.centurylink.com/wholesale/clecs/nta.html">http://www.centurylink.com/wholesale/clecs/nta.html</a>							
The UNE Zone was selected based on where most of the customers in the state reside.							
For SA Zone 1 was chosen, which is the lowest rate, except in Utah where there were no Zone 1 rates.							

14. Many of Allstream’s customers have multiple locations. These customers look for a single provider to deliver its communications needs. The customer may have one main location that requires large bandwidth and multiple voice channels and smaller branch offices that have limited voice and data needs. The ability to make competitive bids for these customers often relies on a mix of last-mile access solutions to reach the end user customer locations. We may use Zayo fiber to reach the main location for the customer, UNEs for locations that fall within our collocation footprint, and resale for locations outside this footprint. Elimination of UNEs and resale, or significant price changes for these services can eliminate our ability to

effectively bid for the desired total communications solution for our customers and degrades our ability to use our own fiber when it is available.

15. Unlike a commercial offering such as a special access service, 2-wire copper loops do not include ILEC electronics that determine what services can be offered over the loop. Rather, Allstream can deploy its own electronics on either end of the 2-wire loop. In this way, Allstream can customize and control the services provided over the loop, including service quality and security. Allstream is not aware of any wholesale commercial offerings in our service area that would provide us with the same functionality as the 2-wire loop in allowing us to provide these services.

16. Some of our customers, including health care providers, banking customers, and governmental entities have specific service requirements that Allstream could not meet without customizing the service by attaching our own equipment to the 2-wire loop. These customers often require secure private networks and lack comparable offerings from ILECs or incumbent cable providers to meet their service quality and security needs. For example, Allstream customizes the service for healthcare providers that ask for secure private networks to meet Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) standards and requirements. In our experience, the ILECs with whom we compete do not prioritize service to business consumers that require highly specialized services, but that are not large. These companies put their emphasis on the mass market with standardized products and thus lower customer acquisition costs, or on enterprise customers with large revenues that offset high customer acquisition costs due to specialized services. For small to medium sized businesses with specialized needs requiring customization, they prefer solutions to utilize public internet transmission (for example, SD-WAN). However, public internet transmission is not as secure as



the private network solutions that Allstream provides using UNE two-pair copper loops combined with our own electronics. Thus, two-pair copper UNE loops allow us to compete to serve this niche, providing superior alternatives for these consumers.

17. Dark fiber transport: Allstream purchases unbundled dark fiber transport in situations where it does not have access to Zayo fiber and either alternative fiber is not available from a third party or third-party alternatives are not cost effective. Dark fiber is not available throughout the ILEC territory. It is only available when one subtending office is classified as Tier 3. In cases where unbundled dark fiber is not available as a result of the change in the Tier status of an office CenturyLink offers commercial dark fiber at substantially higher rates. In most cases where Allstream was purchasing unbundled dark fiber from CenturyLink which subsequently became unavailable as a result in the change in the Tier status of a wire center, Allstream subsequently purchased Commercial Dark Fiber from CenturyLink as either alternative fiber was not available or the costs to migrate services off of existing fiber facilities was prohibitive. The table below compares the rates for unbundled and commercial dark fiber in the CenturyLink service territory in which Allstream operates.

<b>CenturyLink Unbundled and Commercial Dark Fiber Rate Comparison</b>						
<b>Dark Fiber</b>	<b>Unbundled - per pair, per mile</b>	<b>Commercial - per pair, per mile</b>	<b>Percent Increase</b>			
<b>Arizona</b>	\$ 81.60	\$ 400.00	390%			
<b>Colorado</b>	\$ 68.91	\$ 400.00	480%			
<b>Idaho</b>	\$ 66.15	\$ 400.00	505%			
<b>Minnesota</b>	\$ 21.12	\$ 400.00	1794%			
<b>Montana</b>	\$ 76.81	\$ 400.00	421%			
<b>North Dakota</b>	\$ 61.83	\$ 400.00	547%			
<b>Oregon</b>	\$ 68.38	\$ 400.00	485%			
<b>Utah</b>	\$ 63.33	\$ 400.00	532%			
<b>Washington</b>	\$ 53.14	\$ 400.00	653%			
Commercial Dark Fiber: <a href="http://www.centurylink.com/wholesale/clecs/commercialagreements.html">http://www.centurylink.com/wholesale/clecs/commercialagreements.html</a>						
UNE Rates from Exhibit A 9.7.5: <a href="http://www.centurylink.com/wholesale/clecs/nta.html">http://www.centurylink.com/wholesale/clecs/nta.html</a>						

18. The loss of UNEs would also have a serious negative impact on Allstream’s customers. First, the loss of UNEs could result in a reduction in the products and services that we can offer to end users. Commercial replacements for UNEs such as 2-wire loops used to provide digital services do not exist across the ILECs’ service territories.<sup>5</sup> It is unknown whether the ILECs will continue to offer these services and if so, at what rates, terms and conditions. Second, Allstream will attempt to pass through any increase in its underlying cost to end users. This could effectively eliminate Allstream as a competitive alternative in certain markets, especially for our smaller business customers with lower bandwidth demands. Third, to Allstream’s best knowledge, CenturyLink has been diminishing its focus on the small and mid-sized business (“SMB”) market after its acquisition of Level 3. CenturyLink appears to be focusing on the larger commodity product market, which offers standardized services to customers. Standardized services are not comparable substitutes for Allstream’s customers that

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<sup>5</sup> CenturyLink does offer a commercial option for 2-wire loops in the Omaha wire center where it previously obtained UNE forbearance.

have specific service requirements requiring customization. Cable providers in Allstream's markets also do not provide comparable customized services, nor do they build private networks for SMBs. Allstream uses UNE loop facilities, both 2-wire loops as well as DS1 and DS3 loops to provide secure, customized, private networks to its end user customers. By bonding together multiple 2-wire loops, or multiple DS1s Allstream can provide Ethernet services to meet the specific bandwidth needs of many end user customers within its footprint.

19. Allstream has used UNEs to provide innovative services over time, often well in advance of our ILEC competitors. From dial-up internet, to digital subscriber line, to high bandwidth services using Ethernet over copper, to the current SIP and Cloud-based Unified Communications offerings, Allstream is often on the leading edge of new technologies. Allstream's aggressive roll out of new products and services results in the roll out of similar services and offerings from our competitors and has driven the incumbent carrier to upgrade its services in order to better provide services to end users.

20. The loss of access to UNEs would also affect Allstream's ability to deploy its own facilities. In all markets Allstream began offering service using UNEs before deploying network and fiber facilities. Without a sufficient customer base to justify the deployment of fiber facilities, it is much less likely that Allstream would be able to justify the investment in new fiber facilities.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.



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Douglas Denney

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August 3, 2018

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Date

# **ATTACHMENT 5**



Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF JAMES BELLINA**

1. My name is James Bellina. I serve as President and CEO of Dialog Telecom LLC (“Dialog”). I have been with the company for 18 years.

2. Dialog offers voice and broadband services to residential and business customers in suburban and rural areas in the states of Kentucky and Texas. Dialog provides fixed voice and broadband service in 67 markets, which are served by three incumbent local exchange carriers (“ILECs”)—AT&T, Windstream, and CenturyLink. Of these markets, 51 markets are rural. Dialog broadband offerings include traditional DSL, high-speed bonded DSL, fixed wireless, as well as DS1 and fiber offerings.

3. Dialog provides service through a wide variety of mediums including its own fixed wireless networks, and through UNEs purchased from AT&T, including loops (DS0, DS1, and DS3), DS1 and DS3 interoffice transport, and dark fiber interoffice transport. In other areas, Dialog provides service through wholesale arrangements.

4. Dialog provides retail voice and broadband offerings to residential and business customers in suburban markets predominantly using UNE circuits while building density to deploy advanced network technology. Dialog has built out a core network in areas served, but requires UNE circuits as a crucial distribution network to reach subscribers. In many cases

UNEs provide the interoffice connectivity for the core network, and UNEs provide the last mile to the customer premises. Virtually all of Dialog's suburban customers are served in whole or in part over UNEs.

5. DS0 copper loops, and in particular the xDSL-conditioned copper loop, are critical inputs to Dialog's network. Unlike a commercial offering such as a special access service, DS0 copper loops do not include ILEC electronics that determine what services can be offered over the loop. Rather, Dialog can deploy its own electronics on either end of the DS0 loop. In this way, Dialog can customize and control the services provided over the loop, including service quality and security. Using DS0 UNEs, Dialog offers broadband speeds to customers of up to 30 Mbps download and 30 Mbps upload. Dialog is not aware of any wholesale commercial offerings in our service area that would provide us with the same functionality as the DS0 UNE loop.

6. The loss of access to UNEs would affect Dialog's ability to continue to provide service. Specifically, loss of access to UNE DS0 copper loops would result in ending service in suburban markets where there are no wholesale DS0 options available. Loss of access to UNE DS1s would have a similar impact. While there are special access options available for UNE DS1, these options are often cost prohibitive.

7. For other UNE loops such as DS1s and DS3s, commercial offerings like special access services or other business data services may be available. However, we anticipate that cost via special access would be over 200% higher than UNE costs.

8. Dialog uses dark fiber transport as connectivity in its core network. Lit fiber alternatives are significantly more expensive, and in the areas we serve, there is no wholesale alternative for dark fiber connectivity. As a key component to Dialog's core network,

elimination of this UNE would be disruptive to all customers served in the market where the dark fiber UNE is being purchased.

9. DS1 transport UNEs, in addition to providing interoffice transport, also combine with UNE loops to provide Enhanced Extended Lines, or “EELs”—the loss of UNE transport would eliminate the availability of EELs, which Dialog uses to provide DS1 voice, PRI, and bonded DS1 voice and data services. These “legacy” services are still very much needed by commercial customers in Dialog’s serving areas. In recent years, large carriers have made it more difficult and more expensive for customers to get these services, and it should not be assumed that there would be a path to migrate these services to a wholesale or special access arrangement, and if it is possible, it will very likely be cost prohibitive.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.

  
\_\_\_\_\_  
James Bellina  
\_\_\_\_\_  
Date

# **ATTACHMENT 6**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF JEFF BUCKINGHAM**

1. My name is Jeff Buckingham. I serve as President at Digital West. I have been with the company for 1 1/2 years and in the industry since 1983. My responsibilities include leadership of the telecommunications business and services to our customers, regulatory and legislative issues, and always aligning to the core values of our company.

2. Digital West offers voice, broadband, and cloud services to small and medium sized business and some residential customers the rural central coast of California, predominantly in San Luis Obispo and Santa Barbara counties. Digital West is the only DSL broadband provider through a remote terminal in the Nacimiento Lake area northwest of Paso Robles, where the incumbent local exchange carrier (“ILEC”) is AT&T.

3. Digital West has a fiber optic network in San Luis Obispo where we provide a variety of internet and private network products to business including symmetrical 100 Mbps/100 Mbps internet for \$550.00/month in single tenant buildings and \$350.00/month in multi-tenant buildings. Additional speeds and services are available up to 10 Gbps priced on an individual basis, and 1 Gbps residential services are available with unlimited data for \$100.00/month. Digital West also offers voice and asymmetrical and symmetrical data services on UNEs purchased from AT&T or Frontier to businesses on single and bonded loops using T-1,

DSL, VDSL, and SHDSL.BIZ technologies with speeds from 1.5 Mbps/1.5 Mbps to 5 Mbps down/1 Mbps up to 300 Mbps/300 Mbps from \$50.00/month to \$1,200.00/month.

4. Digital West opens our UNE and fiber networks to competitors and provides wholesale services with any of our broadband offerings. Other carriers can connect at our data center or at peering points in northern or southern California and purchase connections to any area that we serve.

5. Where and when possible, Digital West deploys its own fiber facilities to serve customers. Digital West also uses unbundled network elements (“UNEs”) from the ILECs to provide voice and data services. Specifically, Digital West purchases DS0 copper loops, EELs, DS1 and DS3 loops, DS1 and DS3 transport, dark fiber interoffice transport, and copper subloops from remote terminals to reach some customers. The remote terminals are fed by bonded DS-1 loops since dark fiber transport to remote terminals is no longer available. The majority of our customers—approximately 2,000—are served in whole or in part over UNEs.

6. Using DS0 UNEs, Digital West offers voice and broadband speeds to residential customers of up to 30 Mbps download and 10 Mbps upload, and speeds to enterprise customers of up to 300 Mbps download and 300 Mbps upload depending on loop length.

7. The use of UNEs enables Digital West to quickly and reliably serve customers in a marketplace while building the financial sustainability to justify expanding the fiber network. For example Digital West uses bonded copper UNEs to provide low latency symmetrical internet connections that are critical to businesses with precise data needs. These connections are available in areas where no fiber exists and to businesses too small to cost-justify the bonded T-1 or fiber symmetrical solutions offered by the incumbents. Current barriers to fiber deployment are slow, discriminatory, arbitrary and burdensome pole and street access procedures,



inconsistent city and county regulations for construction, and unanticipated regulatory instability, which limits the ability to finance and build fiber. UNEs uniquely assist our ability to build fiber facilities because we can begin to serve the customer, then build the fiber, and, unlike business data services, we do not need to make extended term commitments beyond the period needed to build fiber, which lowers the effective cost of fiber deployment. Most of the fiber deployments done over the last two years are to customers who were served by UNEs.

8. The loss of access to UNEs would affect Digital West's ability to continue to provide service. Specifically, any price increases would have to be passed on to customers and loss of UNEs would eliminate our ability to serve many customers altogether. If Digital West lost access to UNEs, the 80% of existing customers who cannot yet be connected to the fiber network would have to be advised to seek service with very unpopular cable or incumbent telephone companies who also do not offer lower cost high speed services such as VDSL or symmetrical data services. As of August 1<sup>st</sup> 2018 Yelp rates AT&T, Charter, and Frontier at a single star and Digital West is rated at the highest 5 star rating for customer satisfaction. One Example is a 3 location local appliance retailer, "Idler's" who has a combination of services with fiber and UNEs and the phone system is built to fail over using the combined network if any on location loses service. Without the ability to reach customers with UNEs new fiber builds would only be viable to new neighborhoods where conduits are provided by the developer or where other funding or building methods are available.

9. DS0 copper loops, and in particular the xDSL-conditioned copper loop, are critical inputs to Digital West's network. Unlike a commercial offering such as a special access service, DS0 copper loops do not include ILEC electronics that determine what services can be offered over the loop. Rather, Digital West can deploy its own electronics on either end of the

DS0 loop. In this way, Digital West can customize and control the services provided over the loop, including service quality and security. Some of our customers, including health care providers, banking customers, and governmental entities have specific service requirements, such as proactive notification of line failure and simultaneous ringing to multiple locations, that Digital West could not meet without customizing the service by attaching our own equipment to the DS0 loop. Digital West is not aware of any wholesale commercial offerings in our service area that would provide us with the same functionality as the DS0 loop.

10. Digital West is collocated in 8 central offices throughout our service area and 6 of those offices are linked with UNE dark fiber transport. The remaining small offices are connected with UNE DS-3 transport. The dark fiber UNE is particularly important to our ability to deliver broadband because we can purchase the dark fiber UNE at cost based rates and increase the capacity of the connection one step at a time by increasing the capacity of the electronics on either end as the company grows and the customer's demand for bandwidth increases. There are no competitive dark fiber or lit services between central offices so the only services available are the much more expensive ILEC lit services that would increase costs by a factor of 40 and eliminate the flexibility of easily increasing the speed of the dark fiber loops. Each UNE dark fiber connection supports from 100 to 1,000 subscribers (or more) so they are critical to the network. These same dark fiber UNEs are also used to expand the fiber network between cities. Building fiber to duplicate the dark fiber UNEs between central offices is estimated to cost between \$1,000,000 and \$2,000,000.

11. For other UNE loops such as DS1s and DS3s, commercial offerings like special access services or other business data services may be available. However, they are substantially more expensive. UNE DS-1 is available for \$70.00 per month and the equivalent special access

service is \$330.00 per month. Similarly, DS1 and DS3 transport services may be available but at a substantially higher cost. Special Access DS-1 transport is much more expensive costing \$23.71 per mile per month compared to 25 cents for UNE DS-1 transport. Transport UNEs, in addition to providing interoffice transport, also combine with UNE loops to provide Enhanced Extended Lines, or “EELs”—the loss of UNE transport would eliminate the availability of EELs, which Digital West uses to serve customers with advanced voice services such as SIP and PRI and reliable low latency data services in cities where we do not have colocation. At T-1 EEL to a nearby city costs about \$109.00 per month but the equivalent Special Access circuit is over \$600.00 per month and is MUCH more mileage sensitive for cities that are further away. This cost difference is so large that existing services would need to be disconnected and new customers in those cities would be limited only to ILEC services.

12. The loss of UNEs would also have a serious negative impact on our customers. These include critical customer and community anchors: all of the fire alarm and emergency lines for the local school district as well as voice and data services for water districts, local governments, medical offices voice and secure HIPPA compliant data networks, and many non-profit groups. In addition, AT&T has raised the price of POTS lines for fire alarms to \$120.00 per month and many building owners have moved their alarm lines to Digital West at a cost of \$39.00 per month. These alarm lines would no longer be available if the DS-0 UNE is no longer offered. Digital West is the only landline internet provider in the Lake Nacimiento area north of Paso Robles through a remote terminal fed by bonded DS-1 loops and AT&T does not provide wired internet to this area. These 20 rural customers would no longer have access to DSL and a local telephone line for 1 price of \$89.00. The price of an AT&T land line with calling, features

and no internet in the area is \$61.00 per month. An important factor is the cellular coverage in that area is very poor which creates a dangerous situation for 911 and other emergency calls.

13. Our entry utilizing UNEs has pushed other broadband providers to upgrade their services. The local cable company, Charter/Spectrum has recently upgraded speeds in San Luis Obispo County, and AT&T has begun building some limited fiber to high end homes in San Luis Obispo.

14. The loss of access to UNEs would also affect Digital West's ability to deploy its own facilities. In several markets including Paso Robles and Pismo Beach, Digital West began offering service using UNEs but after gaining a sufficient customer base was able to deploy its own fiber facilities. Without access to UNEs, it would be far less likely that Digital West could contemplate deploying new fiber facilities as the way to enter a new market.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.



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Jeff Buckingham

August 3, 2018

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Date

# **ATTACHMENT 7**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF TODD MATTHEW WAY**

1. My name is Todd Matthew Way. I serve as CEO at Douglas Services Inc., dba Douglas Fast Net (“DFN”). I have been with the company for 11 years. My responsibilities include long range planning, market development, and company guidance. DFN is a wholly owned subsidiary of Douglas Electric Cooperative. Our mission is to make advanced communication services including broadband and voice services available for our members and surrounding communities. Utilizing unbundled network elements (“UNEs”) has helped us accomplish this mission.

2. DFN offers voice and broadband services to residential, small business, and medium-sized business customers in Douglas County and Coos County in southern Oregon, where CenturyLink is the incumbent local exchange carrier. In areas of Tyee, Kellogg, Elkhead, and Olalla, DFN is the only broadband option available other than satellite service for approximately 400 customers. In other situations DFN’s fiber-to-the-node network drastically outperforms the CenturyLink’s T1-fed DSLAMs, offering services of up to 40 Mbps where CenturyLink only offers 1.5 Mbps.

3. Where and when possible, DFN deploys its own facilities to serve customers. Approximately 5,000 customers are served over our fiber-to-the-home network. With our fiber-

to-the-home, DFN provides voice service, as well as residential broadband service of 100 Mbps download speeds and 25 Mbps upload speeds with unlimited data usage for \$39.99 per month. Speeds of 1 Gbps download and 250 Mbps upload are available for \$89.99 per month.

4. DFN also owns fiber transport facilities and offers wholesale Ethernet transport service to other carriers and Internet service providers at tailored capacities. Our customers use the transport to deliver traffic to and from their service areas to switches and peering points in Portland, Oregon. DFN is a major provider of cellular backhaul for Douglas County and Coos County, Oregon, enabling major carriers to offer LTE services.

5. Where its own fiber is not available, DFN uses unbundled network elements (“UNEs”) from the incumbent local exchange carrier CenturyLink to provide service. DFN primarily uses UNEs as the last mile solution for hard to reach residential locations to provide voice and broadband services. Specifically, DFN purchases or has purchased in the past DS0 copper loops, DS1 and DS3 loops, and DS1 and DS3 interoffice transport. DFN also purchases UNE subloops to provide last mile solutions from 75 remote fiber-fed DSLAMs to the end user. Approximately 35% of our customers, or 2850, are served in whole or in part over UNEs. There are no other wholesale alternatives to loops or transport from the incumbent local exchange carrier.

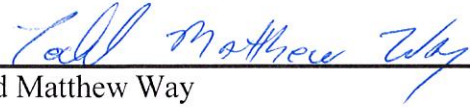
6. Our DSL product, which utilizes UNE elements, provides 5 Mbps download and 1.5 Mbps upload for \$39.99 per month with unlimited data usage. Speeds of 15 Mbps and 40 Mbps are available depending on the conditions and lengths of the UNE copper facilities.

7. The use of UNEs enables DFN to provide broadband and voice services where we do not have our own fiber facilities. Once we have enough interest we will often deploy fiber to the home to improve speeds and reliability.



8. The loss of UNEs would also have a serious negative impact on our residential customers. DFN will be forced to either raise rates or discontinue service to over 2,500 rural homes in Douglas County. *Customers in areas such as Tyee and Ollala, Oregon will be faced with increased rates or loss of service if this were to happen.*

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.

  
\_\_\_\_\_  
Todd Matthew Way

  
\_\_\_\_\_  
Date

# **ATTACHMENT 8**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF GREGORY J. DARNELL**

1. My name is Gregory J. Darnell. I serve as Director Margin Assurance at Fusion Connect, Inc. (“Fusion”). I have been with the company and its subsidiaries for 11 1/2 years. My responsibilities include directing the work of Fusion’s Margin Assurance department, including assessment of customer and product profitability, and the audit of cost of goods sold (COGS) invoices. Prior to coming to work for Fusion, from 1996 through 2006 I worked for MCI on the negotiation and arbitration of interconnection agreements and Unbundled Network Element (“UNE”) rates with the incumbent local exchange carriers (“ILECs”), serving as an Executive Staff Member in 2005 and 2006.

2. Fusion through its various subsidiaries offers voice and broadband services to small and medium-sized business customers in North America.

3. Fusion uses resold services, access services and UNEs from ILECs to provide services. Specifically, where it has invested in collocation facilities, Fusion purchases unbundled copper loops and UNE DS1 loops, often combined with DS1 and multiplexed DS3 interoffice transport. The company also has constructed and owns fiber first-mile loops and metro ring transport facilities.

4. Fusion depends on the nondiscriminatory interconnection offered under ICAs and an ability to lease UNEs at cost-based rates from ILECs.

5. The use of UNEs enables Fusion to provide service to customers using its own network intelligence.

6. The loss of access to UNEs would affect Company's ability to continue to provide certain services.

7. Unbundled copper loops are critical inputs to Company's network. Unlike a commercial wholesale service offering, such as a special access service, unbundled copper loops do not include ILEC electronics that govern the types of services can be offered over the loop. Rather, Fusion deploys its own electronics on either end of the unbundled loop. In this way, Fusion can customize and control the services provided over the loop, including service quality and security.

8. For other UNE loops such as DS1s and DS3s, commercial offerings like special access services or other business data services may be available. However, these commercial offerings are substantially more expensive per unit of bandwidth at comparable Quality of Service (QoS). Similarly, alternative interoffice transport offerings can be available from ILEC and non-ILEC providers. However, consistent with FCC UNE non-impairment rules, these alternatives are generally only available from non-ILEC providers where UNEs are not available and transport alternatives available from ILECs are substantially more expensive per unit of bandwidth and comparable QoS.

9. The loss of UNEs where CLECs are impaired without the ability to purchase UNEs at cost-based rates would also have a serious negative impact on customers. The anticipated first impact would be a rate increase, as I would not expect ILECs to reduce rates for

any comparable special access or wholesale switched Ethernet services to current UNE rate levels. Facility-based CLECs would flow through any cost increase to customers. The second impact would be customer service disruption as these rate increases will drive customers to change service and possibly customer premise equipment. In particular, if a business customer is currently served with TDM service but the cost of TDM service is increased and becomes prohibitively expensive relative to Ethernet based service, a migration to Ethernet service should also mean a migration to new CPE. This is because TDM CPE won't work on an Ethernet without a protocol conversion and unnecessary protocol conversions should be avoided because they reduce long-run network quality and efficiency. Most customers do not have staff dedicated to manage telecommunications and information services. This means that in order to change network service processes, employee time must be diverted from other, probably income creating, tasks. Further, a change to a service delivery method usually means service will be disrupted for a period of time and also means that, even after the change is implemented, there is an increased risk of service failure for a period of time. Network service failure can have a catastrophic impact on a business. As such, most businesses avoid changing anything about their network services and require strong financial incentives to make any changes.

10. The loss of UNEs at cost based rates where impairment exists would also negatively affect market entry. The ability to purchase UNEs at cost-based rates where impairment exists provides new market entrants a stair step to full facility based service. The market entry path set forth by the FCC in the 1996 First Report and Order (CC Docket 96-98), and subsequent refinements to that order, has been as follows: total service resale first; UNEs combined with some CLEC facilities second; and, full facility based service last. Fusion's history has followed this three step approach to full facility based competition in several markets

including Atlanta, Houston, Dallas, Chicago, Los Angeles, Denver and San Francisco. The Company began offering its services using resale and UNEs and after gaining a sufficient customer base was able to deploy fiber facilities in these markets. Without access to UNEs priced at cost-based rates, and the location specific revenue stream that they make possible for new market entrants, the construction of competitive fiber facilities would become less likely.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.

/s/

\_\_\_\_\_  
Gregory J. Darnell

August 5, 2018

\_\_\_\_\_  
Date

# **ATTACHMENT 9**



Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF DAN BUBB**

1. My name is Dan Bubb. I serve as President and CEO of Gorge Networks Inc. (“Gorge Networks”). I have been with the company for 22 years. My responsibilities include the strategic direction of the company and managing our financial health.

2. Gorge Networks offers voice (via IP and TDM) and broadband services to residential, small business, and school and government customers in the Mid-Columbia area of Oregon and Washington (north-central Oregon and south-central Washington), which is a very rural part of the northwest. In some of the more remote areas such as the outlying areas in Wasco County, we are the only provider of broadband services, over our fixed wireless network.

3. Our residential broadband service ranges from 5 Mbps best effort to 100 Mbps depending on the area and technology used (fixed wireless, unbundled network elements (“UNEs”), or fiber). Our business-class service is up to 1 Gbps symmetrical service.

4. Where and when possible, Gorge Networks deploys its own facilities to serve customers. We currently serve 75% of our customers over our own fiber-to-the-premises network or our fixed wireless network. The remaining 25% is served via UNEs. Specifically, we purchase DS0 copper loops, DS1 and DS3 loops, and DS1 and DS3 interoffice transport. We

also purchase UNE subloops when a customer we want to serve is served by an ILEC remote terminal (“RT”). Gorge Networks also resells a small amount of service from CenturyLink.

5. We use UNEs as a last mile solution primarily. Approximately 25% of our customers are served directly over UNEs. Using DS0 and subloop UNEs, Gorge Networks offers broadband speeds to business and residential customers of up to 100 Mbps download and 20 Mbps upload

6. The use of UNEs enables Gorge Networks to 1) provide faster more reliable service than the ILEC due to bonding copper loops and providing higher feeder capacity, and 2) establish sufficient market share before we invest in a fiber build in that same market. Due to the high cost of building fiber networks, it is important that we establish a customer base prior to building a fiber network to feed the same customer. We can shorten the time to return-on-investment by rolling an existing customer base on to fiber, making it easier to finance the fiber build. UNEs uniquely assist our ability to build fiber facilities because we can begin to serve the customer, then build the fiber, and, unlike business data services, we do not need to make extended term commitments beyond the period needed to build fiber, which lowers the effective cost of fiber deployment.

7. DS0 copper loops and Subloops, and in particular the xDSL-conditioned copper loops, are critical inputs to our network. Unlike a commercial offering such as a special access service, DS0 copper loops do not include ILEC electronics that determine what services can be offered over the loop. Rather, we deploy our own electronics on both ends of the DS0 loop. In this way, we can customize and control the services provided over the loop, including service quality and security. Some of our customers, including health care providers, banking customers, and governmental entities have specific service requirements that we could not meet without

customizing the service by attaching our own equipment to the DS0 loop. In many instances, we bond several DS0 loops to provide speeds well beyond what the ILEC can provide over the same copper loops. Secondly, operating the equipment on both ends of the UNE allows us to more effectively trouble shoot service quality issues. In fact, we have no control over the service at all if it transits any electronics by the ILEC and troubleshooting service quality issues is significantly delayed. We are not aware of any wholesale commercial offerings in our service area that would provide us with the same functionality as the DS0 loop.

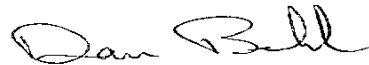
8. The loss of access to UNEs would significantly affect our ability to continue to provide service in a number of markets. Markets where no aerial utilities exist prove too costly in most cases to construct fiber facilities; underground networks are more expensive to build. Even if existing UNEs are grandfathered in, we would not have the ability to add loops for speed increases, or move customer to new locations. We are already paying a high rate for UNEs (\$24/ per month or higher for a DS0); and a price increase would force us to exit that market with UNE based services. That would also strand the hundreds of thousands of dollars of investment we have made in Colocation, DSLAMs, and other infrastructure that we built in order to provide service via UNEs. Because the loss of UNEs would result in a substantial financial hit on us (roughly 25% revenue loss) it would impact our ability to fund new fiber builds in other markets.

9. For other UNE loops such as DS1s and DS3s, special access services are considerably more costly. Similarly, DS1 and DS3 transport services may be available but at a substantially higher cost. The loss of UNE transport would also eliminate the availability of EELs, which we use to provide voice services such as a PRI to remote customers. We provide PRI service to schools and businesses that would not be able to get the same service from the ILEC.

10. The loss of UNEs would also have a serious negative impact on our customers. The fact that we have a significant market presence is proof that consumers are not satisfied with the level of service provided by the ILEC (in our case, this is CenturyLink). Customers would be forced to use their service in many of our service areas. If it weren't for our fiber construction, some customers would be without broadband service at all due to the lack of capacity available by the ILEC. For instance, we are deploying fiber in Cascade Locks where portions of the community have requested broadband service from the ILEC and have been declined due to lack of facilities.

11. The loss of access to UNEs would also affect Company's ability to deploy its own facilities. In Hood River, OR and Goldendale, WA markets we began offering service using UNEs but after gaining a sufficient customer base we were able to deploy fiber. Gorge Networks is the first company to deploy fiber-to-the-premises in a broad scale to these communities, and we are in the process of moving customers from UNEs to fiber. Without access to UNEs, we would not have been able to establish the foothold necessary to allow us to deploy fiber to Hood River and Goldendale, and it would be far less likely that we could contemplate deploying new fiber facilities as the way to enter a new market.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.



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Dan Bubb

8/3/2018

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Date

# **ATTACHMENT 10**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-	)	
Generation Networks	)	

**DECLARATION OF FLETCHER KITTREDGE**

1. My name is Fletcher Kittredge. I serve as CEO at Biddeford Internet Corporation d/b/a GWI. I have been with the GWI for 24 years. My responsibilities include overseeing all departments.

2. GWI offers voice and broadband services to residential, small business, medium-sized business, and enterprise customers in the State of Maine. We provide service via 58 central offices and points of presence in all sixteen Maine counties.

3. GWI provides residential broadband via both DSL and fiber. Our residential DSL broadband service provides a maximum of 20 Mbps download speeds and 1 Mbps upload speeds delivered over a single copper loop for \$36.95 per month before taxes and fees. Speeds are dependent upon distance from the central office. In Fiber Service Areas where we have invested in fiber infrastructure we deliver symmetric speeds of up to 1 Gbps using our own fiber. Pricing ranges from \$69.95 for 150/150 Mbps, \$94.95 for 250/250 Mbps, \$119.95 for 500/500 Mbps, to \$159.95 for 750/750 Mbps. 1 Gbps/1 Gbps are limited cases and do not currently have a published rate.

4. Our commercial broadband service ranges from 20 Mbps download and 1 Mbps upload for \$69.95 using UNE copper loops up to symmetric 1 Gbps using our own fiber. In

between these we can also deliver 30 Mbps/3 Mbps via bonded UNE copper loops for \$119.95 and up to a symmetric 40 Mbps using bonded loops from the ILEC. Prices vary dependent upon the number of UNE copper loops needed to achieve the customer's download and upload requirements. GWI does not cap nor do we monitor and charge for usage in either the residential or commercial segment.

5. GWI is a strong proponent of the "open access network" model and wholesales access to a wide-range of its products including but not limited to middle and last mile dark fiber, lit transport for other carriers, and DSL service to business and residential customers. Our wholesale offerings are split into two categories: re-sale and network-to-network interface (NNI) connections. On the NNI side we provision single or multiple LEC-provided copper loops or a fiber optic connection via our fiber network into the wholesale customer's premises and carry this back to the NNI peering point where the data traffic is then transported by the wholesale carrier on the network. Our delivery mechanism is the same, relying upon copper loops from the ILEC or our own fiber when possible.

6. We offer wholesale Ethernet transport service to other carriers and internet service providers at tailored capacities. Our customers use the transport to deliver traffic to and from their service areas to a variety of switches and peering points in Maine, Boston, Manchester, NH, and New York City.

7. For the last twelve years, GWI has been constructing its own fiber network with the intention of eventually replacing the UNEs it leases from the incumbent. The two main factors determining where we build fiber are the growth in demand for higher speed services and the market share we have reached using UNEs. An example of a market where we have constructed fiber to replace UNEs is South Portland, Maine. We have also constructed fiber to



replace UNEs in parts of Falmouth, Cumberland, Freeport, Bath, Topsham, and Brunswick, Maine. Where and when possible, GWI deploys its own fiber facilities to serve customers.

While over half of our revenue is based on our fiber network, 73% of our customers are served in whole or in part over UNEs. This is because our small business and residential customers are served primarily by fiber.

8. Using DS0 UNEs, GWI offers broadband speeds to residential customers of up to 20 Mbps download and 1 Mbps upload and speeds to enterprise customers of up to 45 Mbps download and 45 Mbps upload.

9. The use of UNEs enables GWI to build a customer base which then financially justifies building a fiber infrastructure and to serve rural markets that are too small and isolated to justifying building our own infrastructure. Without access to UNEs, this would not be possible.

10. The loss of access to UNEs would affect GWI's ability to continue to provide service. Specifically, we would pull out of roughly 30% of the approximately 60 markets we serve. All of the markets we would exit are rural markets. In these markets if GWI left there would be very limited alternatives for customers. In the rest of the markets we serve, we would cancel our entry level products resulting in severely limited or no choice of service for low income customers.

11. DS0 copper loops, and in particular the xDSL-conditioned copper loop, are critical inputs to GWI's network. Unlike a commercial offering such as a special access service, DS0 copper loops do not include ILEC electronics that determine what services can be offered over the loop. Rather, GWI deploys its own electronics on either end of the DS0 loop. In this way, GWI can customize and control the services provided over the loop, including service

quality and security. Some of our customers, including but not limited to health care providers, banking customers, and governmental entities have specific service requirements that GWI could not meet without customizing the service by attaching our own equipment to the DS0 loop. We offer Ethernet Dedicated Internet Access, Ethernet Wire Service, Ethernet Virtual Private Line, Ethernet Virtual LAN and Hosted PBX services over DS0's. We customize the Ethernet services to meet the specific and unique requirements of our customers. If a customer needs a 5 Mbps/5 Mbps service we deliver just the speed they need. This provides the customer with flexibility to run their critical operations in a cost effective manner. With these customizations we routinely deliver what is required, where it's required in the manner that suits the customer. This flexibility is unique in this market where the ILEC only offers three or four bandwidth options. If the customer does not fit one of those bandwidth profiles they are forced to purchasing more or less bandwidth than is required for them to run their operations. Most of the time they are forced to purchase more bandwidth. Our voice product for these enterprise customers is Hosted PBX. We deliver Hosted PBX via one or several bonded DS0's to deliver this managed voice solution to customers. Each Hosted PBX deployment requires a minimum of one but in some cases multiple DS0's to carry the VoIP traffic. Not having access to these would reduce the customer's ability to procure this type of service and force them into more traditional and archaic premises-based phone systems that rely solely on the ILEC for dial tone.

12. GWI is not aware of any wholesale commercial offerings in our service area that would provide us with the same functionality as the DS0 loop.

13. The only interoffice transport GWI uses is dark fiber. Eight years ago GWI was entirely dependent on dark fiber interoffice transport UNEs. In the intervening interval, GWI has replaced most dark fiber interoffice transport UNEs with dark fiber it has constructed itself or in

partnership with others. Of the 58 COs GWI uses, we are only completely dependent on UNE dark fiber interoffice transport in thirteen: Waterville, Augusta, Lewiston, Westbrook, North Deering, Gardiner, Windham, Gorham, Old Orchard Beach, Kennebunkport, Lisbon Falls, Livermore Falls, and Norway, serving more than 1100 customers. There is no substitute dark fiber provider in North Deering, Gardiner, Windham, Gorham, Old Orchard Beach, Kennebunkport, Lisbon Falls, Livermore Falls, and Norway. We estimate the cost to build fiber to those 9 COs at approximately \$3.4 million and we would serve more than 400 customers. We have over 81 DS1 transport UNEs in our network. In addition to providing interoffice transport, they also combine with UNE loops to provide Enhanced Extended Lines (12 of them in our network), or “EELs”—the loss of UNE transport would eliminate the availability of EELs, which GWI uses to deliver advanced voice services to enterprise level customers.

14. The loss of UNEs would have a serious negative impact on our customers. GWI provides service to 444 Community Anchor Institutions (Library K-12, college/university, hospital/medical, public safety, emergency, municipal). Similar to GWI’s other customers, the vast majority of these anchor institutions are in rural areas and have chosen GWI as a service provider because we are the only option at the speed/feature/cost that they need. For example, while the ILEC only has three or four bandwidth tiers, forcing customers to buy either more or less bandwidth, GWI prices bandwidth in small increments allowing customers to buy only what they need. We also highly customize our Hosted PBX product to match the customer need. If GWI was not able to offer services in these rural areas, there would be no other option that meets their needs.

15. Our entry utilizing UNEs has pushed the ILEC to upgrade their services. In 2002, GWI first offered broadband in eight markets in Maine. In four of those eight markets, there was

no other broadband provider; the ILEC did not yet offer DSL. Shortly after GWI started, the ILEC deployed DSL in those markets. In 2004, GWI became the first provider in the US to offer ADSL2+ service and we deployed it to more than 50 COs. It took years for the ILEC to deploy ADSL2+ to those markets. In 2008 GWI and its partners constructed a fiber network serving Portland, Falmouth, Cumberland, Yarmouth, Freeport, and Brunswick, Maine. In those locations and in locations where GWI has since constructed fiber: Houlton, Rockport, South Portland ,and Ellsworth, Maine, GWI began offering service using UNEs but after gaining a sufficient customer base was able to deploy its own fiber facilities. Without access to UNEs, it would be far less likely that GWI could contemplate deploying new fiber facilities as the way to enter a new market.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.

/s/

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Fletcher Kittredge

August 4, 2018

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Date

# **ATTACHMENT 11**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF DANIEL FRIESEN**

1. My name is Daniel Friesen. I serve as Managing Member and Chief Innovation Officer of IdeaTek Telcom (“IdeaTek”), which I co-founded in 1999. My responsibilities include overall company strategy, high-level network design, and development of innovative strategies for rural broadband deployment.

2. IdeaTek offers voice, data transport, and broadband services to rural residential consumers, small businesses, schools, and small governments in South Central Kansas. We exclusively offer fiber-based broadband services, and we are the only gigabit-fiber provider in our service territory. In many cases, such as the Kansas towns of Bentley, Andale, and Mount Hope, the incumbent telephone provider (AT&T or CenturyLink) provides no broadband services in our service area, and a majority of our entire service territory has no cable operator. We also serve many unincorporated areas of Reno and Sedgwick counties, which have no cable or ILEC wireline broadband service providers.

3. Our standard broadband service package provides a standard 1 Gbps download speed and 10 Mbps upload speed with unlimited data usage for \$70 per month for a residential customer and \$150 per month for commercial businesses. We also offer a range of more advanced broadband and data transport services including symmetrical internet and point-to-

point data connectivity. We offer voice services for both residential and business customers. Our local exchange voice products which typically range in price from approximately \$20 to \$40 per month per line typically include all calling features for no additional charge and unlimited domestic long distance. We also offer advanced voice services such as PRI and VoIP/SIP trunking.

4. IdeaTek uses interoffice dark fiber transport UNEs to support its services to rural and underserved markets. We use dark fiber UNEs to connect from a more urban central office, where we can obtain critical wholesale broadband and transport services, to a more rural unserved central offices. Many of these rural unserved central offices, while containing ILEC fiber capacity, are not being used by the ILEC to provide broadband services to the last mile. In contrast, we utilize the ILEC's unused dark fiber transport UNE in such support fiber-to-the-home services. Even where an ILEC central office may have broadband service, we often extend our service outside the ILEC service coverage area and start serving the rural farms and homes often unserved or served with lower-speed broadband. Specifically, these areas that lack fiber-speed services include rural unincorporated areas of Reno and Sedgwick counties around Hutchinson and Wichita, Kansas.

5. One specific and powerful example of the use of UNE dark fiber transport is our deployment in Andale, Kansas. Andale is an AT&T ILEC exchange, has a population of 928 people, and is located approximately 10 miles west of Kansas' largest municipality, Wichita. As of 2016, the community had neither an ILEC nor cable-based wireline broadband product. Andale community leaders shared their frustrations with IdeaTek, questioning how the town's broadband infrastructure could be left behind in this digital age for so long. They stated that they had requested, if not begged, both AT&T and the adjacent cable operator for more than a decade

to deploy broadband in their community. They watched as adjacent communities such as Colwich (4 miles to their East) received broadband services from both AT&T and the cable provider. IdeaTek responded by deploying a business case using an AT&T transport fiber UNE located within the Andale central office to obtain the costly transport services needed to reach the community. We then deployed a fiber-to-the-home network to each resident using our own fiber. Today, in 2018, Andale is one of our most highly penetrated markets. We attribute that success both to the quality of our product and the lack of any entrenched wireline incumbents. Without access to AT&T's transport fiber, this success story would likely not exist.

6. To further substantiate the power of competition driven by the use of UNEs, after our announcement of intentions to deploy fiber in Andale in 2016, the adjacent cable company subsequently announced it too would overbuild the community with fiber-to-the-home. It should not be understated how the emergence of competitive pressure changed the investment importance of competitors in this small rural community. Andale had been abandoned by AT&T and the cable provider, and for decades pleaded for broadband service. A competitive broadband market only emerged after IdeaTek took the innovative approach to use dark fiber UNEs to cost-effectively extend its network. We emphasize this point that the competition we created via UNEs was the trigger for other competitive investment to the significant benefit for the consumer in Andale.

7. It is also important to note that, just like the ILEC, IdeaTek simply cannot operate without these UNE dark fiber transport facilities, as they are integrated into our network backbone and serve both as a primary and sometimes critical redundant path to our network. Replacement through new construction would in many cases be cost prohibitive, and alternative provider options are typically limited. These areas often are not served by alternative fiber



providers, and if they are served, it is not at price points that are feasible for the high-cost/low-revenue areas in which we operate. Further, where available, commercial lit and special access services simply do not provide the ultra-capacity bandwidth at a price point we need for gigabit-based broadband products.

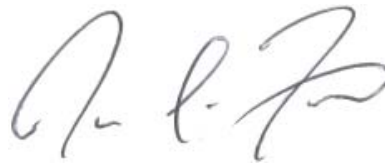
8. IdeaTek has invested tens of millions of dollars in sustainable rural fiber optic infrastructure. We expect to continue investing at least \$2-3 million per year on new fiber optic infrastructure. The loss of transport UNEs, which are an integral part of the connectivity of these investments, will cause the company significant economic harm, erode local investment in next-generation infrastructure, lead to the loss of high-paying technical jobs, and undermine the economic support we provide to dozens of rural local businesses. Simply put, UNE forbearance will reduce our ability to both invest in critical infrastructure for America and create competitive pressures in still low-competitive markets and impede our ability to push further into unserved rural markets.

9. IdeaTek believes that all Americans should have access to fiber-speed networks today and that time and time again rural and remote Americans either get left behind or simply endure the hand-me-down technology of a decade earlier. Dark fiber interoffice UNEs have enabled IdeaTek to connect our last-mile fiber optic networks in remote and unserved areas of Kansas to the company's backbone and supporting facilities. Transport networks, especially in rural and remote areas, can cost just as much, if not more, than the last mile deployment, and thus without access to these UNEs our expenses in already high-cost areas will certainly increase. We expect these increases to reach levels that may be unsustainable, or at a minimum, be passed on to the end consumer, reducing the affordability of best-in-class service as well as likely extinguishing the opportunities to continue deployment in unserved (wireline) areas.

10. The loss of UNEs would also have a serious negative impact on our customers. Without dark fiber interoffice transport UNEs, IdeaTek would have to decide on a community-by-community basis whether to raise prices or exit certain markets that have no feasible alternative for dark fiber transport.

11. IdeaTek has used dark fiber transport UNEs as an investment ladder to reach a point where we own our fiber transport facilities and eventually abandon the need to rely on ILEC infrastructure in some areas. We operate among industry giants. Indeed, much of our competition comes from the largest companies in America, with seemingly unlimited access to capital and resources. The disparity found in the American broadband market between the small business CLECs like IdeaTek and the entrenched monopolies or duopolies continues to beg for some reasonable forms of level playing fields. Without UNE access, in many markets IdeaTek would be slowed in deployment, and perhaps barred from deployment altogether. But with these UNEs we are able to establish a customer base, invest millions annually in advanced broadband infrastructure, and eventually replace UNE's with our own facilities. Simply put, our contribution and investment to the competitive broadband landscape in Kansas would have been substantially hampered without access to UNE's.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.



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Daniel P. Friesen

August 3, 2018

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Date

# **ATTACHMENT 12**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-	)	
Generation Networks	)	

**DECLARATION OF JEFF RHODEN**

1. My name is Jeff Rhoden. I am the Managing Partner of Origin Networks, LLC DBA InfoStructure. I have owned InfoStructure since 2003 and been involved in the telecom industry since 1995. My responsibilities include the strategic direction of the company and managing our financial health.

2. InfoStructure offers voice (via IP and TDM) and broadband services to small business, schools, and government customers throughout Oregon and Washington. Our TDM/copper services are primarily offered in the cities located along the Interstate-5 corridor<sup>1</sup> and in the Central Oregon market of Bend.

3. Our commercial broadband service ranges from 1.5 Mbps best effort to 1 Gbps depending on the area and technology used (fixed wireless, UNEs, or fiber).

4. InfoStructure is not a fiber or copper/coax construction company so is 100% reliant on leased lines from other carriers including the incumbent local exchange carrier (“ILEC”) CenturyLink. We use unbundled network elements (“UNEs”) from CenturyLink to

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<sup>1</sup> These include the communities of Roseburg, Eugene, Springfield, Salem, Portland, Redmond, Medford, Ashland, Phoenix, Talent, Central Point, and Grants Pass.

provide many services to our customers. Specifically, we purchase DS0 copper loops, DS1 loops, DS3 loops, DS1 interoffice transport, and DS3 interoffice transport. Additionally from CenturyLink, we purchase tandem connectivity (connectivity to the public switched telephone network or PSTN), Signaling System 7 trunking (SS7) for call routing and Central Office (CO) Collocation in 7 different COs throughout the state of Oregon. These critical CO locations are where we connect our voice switches and data networks to each other, to the ILEC, and to our customers.

5. We use UNEs as a last mile solution primarily. We have approximately 5000 UNE loops supporting almost 2000 customers who represent almost 40% of our total company revenue. The breakdown of areas in Oregon served is as follows:

Portland	Willamette	Southwest	Coast	Central	East
3.4%	19.9%	66.5%	0.5%	9.5%	0.2%

6. Using DS0 UNEs, InfoStructure offers broadband speeds to business customers of up to 100 Mbps download and 20 Mbps upload. Over DS3s, by contrast, the top speed is 45 Mbps.

7. The use of UNEs enables InfoStructure to 1) provide faster, more reliable service than the ILEC due to bonding copper loops and providing higher feeder capacity, 2) support TDM customers who specifically desire to not do business with the ILEC due to customer service, product flexibility and pricing/billing issues, and 3) secure a reliable revenue source that allows InfoStructure to continue re-investing in our own voice and data networks and stay literally years ahead of the ILEC when it comes to the voice technology we offer our customers and a world apart from the ILEC when it comes to customer service, business development, and communications consulting.

8. The loss of access to UNEs would significantly affect our ability to continue to provide service in a number of markets—markets where no other UNE alternatives exist. Even if existing UNEs are grandfathered in, we would not have the ability to add loops for speed increases or to make customer adds, moves, and changes. Services provided through UNEs are some of our lowest margin services so any increase would negate the advantages they provide today and force us to exit that market with UNE based services. That would also strand the hundreds of thousands of dollars of investment we have made in Colocation, DSLAMs, and other infrastructure that we built in order to provide service via UNEs and cause a loss of service to those customers, which include Jackson County library and school district. Because the loss of UNEs would result in a substantial financial hit on us it would impact our ability to fund new and advanced voice services in other markets.

9. DS0 copper loops, and in particular the xDSL-conditioned copper loops, are critical inputs to our network. Unlike a commercial offering such as a special access service, DS0 copper loops do not include ILEC electronics that determine what services can be offered over the loop. Rather, we deploy our own electronics on both ends of the DS0 loop. In this way, we can customize and control the services provided over the loop, including service quality and security. Some of our customers, including health care providers, banking customers, and governmental entities want Ethernet over copper, which we could not provide except over the DS0 loop and our own electronics. In fact, we have no control over the service at all if it transits any electronics by the ILEC. We are not aware of any wholesale commercial offerings in our service areas that would provide us with the same functionality as the DS0 loop.

10. For other UNE loops such as DS1s and DS3s, special access services are considerably more costly. Similarly, DS1 and DS3 transport services may be available but at a

substantially higher cost. The loss of UNE transport would eliminate the availability of EELs, which we use to provide voice services such as a PRI to remote customers. We provide a class of business PRI services to schools and businesses which would not be able to get the same service from the ILEC because they have not upgraded their facilities with the technology to provide such services.

11. The loss of UNEs would have a serious negative impact on our customers. The fact that we have a significant market presence is proof that consumers are not satisfied with the level of service provided by the ILEC. Customers would be forced to use their service, which in many cases fails to provide the same level reliability, routing flexibility, and disaster recovery options. Customers have chosen Origin for these qualities as well as price, outage response times, and customer service. Customers should continue to have the option for service of this caliber.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.



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Jeff Rhoden

8/4/18

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Date

## **ATTACHMENT 13**



**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF BRIAN WORTHEN**

1. My name is Brian Worthen. I serve as CEO at Mammoth Networks. I have been with the company and its parent organization for 17 years. My responsibilities include strategy and decision-making that results in broadband deployment in the most rural areas of Colorado, Wyoming, and Montana. More recently, I make decisions on where to deploy our own fiber and microwave (fixed wireless) infrastructure.

2. Mammoth offers voice and broadband services to residential, small business, medium-sized business, and wholesale customers in 20 communities in Colorado, 94 communities in Wyoming, and three communities in Montana. All but three of these communities have populations of less than 30,000. Mammoth and its affiliated companies are the only competitive broadband provider in 51 communities and unincorporated places in the region, all with a population of less than 1,000. Mammoth was the first to deploy broadband in more than a dozen rural communities. In some of those communities, other broadband providers followed. For example, within two years of us offering service in Ranchester, Wyoming, CenturyLink and the cable company rolled out their own broadband offerings. Likewise, CenturyLink rolled out its own DSL in Douglas, Wyoming less than six months after we rolled ours out.

3. Mammoth offers retail voice and broadband services over a variety of network types. Over its own fiber-to-the-premises network, Mammoth provides speeds of 1 Gbps/1 Gbps or an option to purchase 10 Gbps/10 Gbps. Using VDSL from fiber-fed remote terminals, Mammoth offers speeds of 80 to 100 Mbps download. In other areas, Mammoth has built out a fiber-fed fixed wireless network, over which it offers residential broadband service with 50 Mbps/5 Mbps and 100 Mbps/5 Mbps. In some areas, Mammoth offers DSL over copper loops at speeds of 15 Mbps download to 80 Mbps download.

4. Mammoth offers wholesale Ethernet transport service and dedicated internet access to regional fiber providers, independent local exchange carriers, small cable providers, utilities, municipal networks, and internet service providers at dedicated capacities, often with route redundancy as a specific requirement. Our customers use our transport to deliver traffic to and from their service areas to switches and peering points in locations such as Seattle and Spokane, Washington; Billings, Montana; Casper, Wyoming; Denver, Colorado; and Albuquerque, New Mexico, or to receive metro-priced bandwidth in the most rural corners of America.

5. Where and when possible, Mammoth deploys its own facilities to serve customers. Mammoth currently provides broadband to 2,883 customers over its own last-mile fiber network. In other areas, Mammoth has deployed its own fixed wireless last-mile solutions. At the time of this declaration, 9,284 customers are served over Mammoth's own fixed wireless network, including 27 remote ranches in Wyoming that have no other terrestrial broadband option. .

6. Mammoth also uses unbundled network elements ("UNEs") from CenturyLink, the incumbent local exchange carrier ("ILEC") in Mammoth's service areas. Specifically,

Mammoth purchases DS0s and dark fiber interoffice transport UNEs. Mammoth also purchases subloops and has been instrumental in fiber builds to the ILEC pedestals to feed remote clients.

7. Approximately 8,700 of our customers are served in whole or in part over UNEs, either in the form of access services or unbundled fiber elements acting as middle mile components of our network. Some customers are also served over resold fiber.

8. Where Mammoth uses unbundled DS0 loops to serve its customers, Mammoth deploys its own electronics on each end of the loop, bonding up to eight pairs of DS0s to produce synchronous services for small and medium-sized businesses while exerting control over the quality of service for voice and security. This method of broadband deployment provides creative options for businesses that would experience higher prices if Mammoth were to order business data services using the ILEC equipment and electronics. There is no wholesale equivalent to the DS0 loop UNE available in Mammoth's service area that would allow Mammoth to offer services of the same speeds and quality.

9. Mammoth also uses dark fiber transport UNEs to serve its customers. With Mammoth's investment in electronics, a single dark fiber transport UNE can very efficiently serve the needs of many disparate customers. In Colorado, for example, we have a single inter-office fiber that serves the following: a WISP with 411 Mbps of traffic today, which represents approximately 250 to 275 customers; a WISP with 756 Mbps of traffic today, which represents approximately 900-1,200 customers; a college that serves about 750 students remotely and another 1,500 students during the fall and spring semesters (these numbers do not include faculty and staff); a county employing 280 individuals; two cities employing 241 and 84 individuals, respectively; three schools districts totaling 4,064 students; the three offices of a power company that employs 70 individuals; a startup company that purchases Mammoth wholesale service in

building fiber-to-the-home in the community; another wholesale client offering voice to 14 retail business clients; and 12 retail business clients. A single interoffice dark fiber transport is supporting entire communities.

10. The use of UNEs enables Mammoth to expand into rural markets to provide a redundancy option or deliver service to businesses in the communities that are often underserved by the ILEC. In some cases, Mammoth faces other obstacles, such as obstacles and state legal hurdles that prevent access to rights of way, placing a large importance on UNEs.

11. The loss of access to UNEs would affect Mammoth's ability to continue to provide service, limiting bandwidth to some rural markets and forcing Mammoth to purchase higher-cost transport and access services, limiting our ability to compete in markets where we have low adoption rates but are providing a competitive broadband alternative. For example, in Hayden, Colorado, Mammoth relies on the dark fiber transport UNE to connect the community to the rest of Mammoth's network. Mammoth pays \$1100 per month for this facility. If Mammoth instead had to purchase business data services from CenturyLink to meet this need, the price of the service would be between \$4400 and \$5200 per month, which would likely make service to Hayden too expensive to continue. In our service area, Mammoth has experienced five years of wholesale rates that are more expensive than the going retail rate, and rates are increasing. For example, a wholesale 10 Gbps Wave from CenturyLink costs far more than the same retail service. UNEs have been one bastion of hope for our company to deliver competitive services.

12. The loss of UNEs would also have a serious negative impact on our customers, particularly critical customers who need a reliable option for redundancy. We are the only route redundant option to three rural hospitals (in Douglas, Wyoming; Torrington, Wyoming; and

Steamboat Springs, Colorado), the two largest PSAPs in Wyoming, five counties including their Sheriff's Offices, and 14 towns and cities. Mammoth also provides service to three distinct states, handling schools and state agencies such as the Department of Transportation, the Department of Family Services and a statewide VHF public safety communications system.

13. Mammoth has already been affected financially by higher prices for ILEC services, and the loss of access to dark fiber interoffice transport UNEs would increase our costs of serving rural markets by eight to nine times. This calculation is based on recent pricing obtained for wholesale finished services along the same path as Mammoth currently operates dark fiber interoffice transport UNEs. The resulting financial impact to Mammoth would limit the capital necessary to build fiber in the most rural of markets and would force the company to focus its broadband efforts on fewer rural communities.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.



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Brian Worthen

8/4/18

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Date

# **ATTACHMENT 14**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to	)	
Accelerate Investment in Broadband and	)	
Next-Generation Networks	)	

**DECLARATION OF RAUL ALCARAZ**

1. My name is Raul Alcaraz and I serve as the CEO at Race Telecommunications, Inc (Race). I have been with the company since its inception in 1994. My responsibilities include market analysis, contract negotiations, and vendor communication, as well as business development and daily operations.

2. Race offers voice, television, and broadband services to residential customers as well as small/medium-sized business customers and enterprise clients throughout the state of California over its own fiber-to-the-home network. Race focuses on unserved and underserved communities in Mono, Kern, and San Bernardino counties. In a lot of our smaller communities, we are the only terrestrial wireline broadband provider. Towns such as Chalfant, Johannesburg, Randsburg, and Red Mountain did not have any options other than expensive and unreliable satellite service prior to Race deploying service in those areas. Cellular service is also non-existent in large parts of these towns. Race is the only viable option for residents in these communities and reliable, fiber-to-the-home service.

3. Our residential broadband service provides symmetrical speeds up to 1,000 Mbps for \$60 per month, as well as an affordable plan that provides service of symmetrical speeds up to 25 Mbps for \$25 per month. Both plans offer unlimited usage. For small businesses, we offer 4 plans with symmetrical 25, 100, 250, and 1,000 Mbps service with unlimited data usage for \$60, \$120, \$160, and \$200 per month respectively.

4. Through the extensive statewide fiber network that Race has built, our company has been a benefit to both enterprise and wholesale Customers. Mojave Air and Space Port in Mojave, CA was Race's first large scale fiber project, which was facilitated in part by structured access at the regulated tariff rate. This project allowed Mojave to become the leading private Space Port in the nation. It also allowed other carriers to now be able to lease dark fiber from Race to reach tenants of the Space Port, in addition to the anchor tenants that Race serves directly. Race has been able to offer the same high quality service in other markets. We offer wholesale Ethernet transport service to other carriers, CMRS providers, and internet service providers at tailored capacities.

5. Where and when possible, Race deploys its own facilities to serve customers. But in other areas, Race purchases UNEs, including DS1, DS3, and dark fiber interoffice transport UNEs. Without UNEs, Race would face an increase in costs as ILECs would be able to charge higher commercial rates for access to their networks. With increased deployment costs, Race would be less likely to enter new markets where structured access or UNEs are needed, and would refrain from expansion in those regions.

6. The use of UNEs enables Race to serve unserved and underserved markets that would normally not be feasible due to the cost of deploying networks in these markets—as is evidenced by the lack of broadband services in these markets. UNEs uniquely assist our ability



to build fiber facilities to remote areas with particularly challenging terrain, and UNEs facilitate a more expedited and cost efficient deployment of the middle mile needed for these types of projects.

7. Today, Race has passed over 15,000 homes and businesses in rural, unserved, and underserved communities with its own last-mile fiber network and is in the process of building our fiber network out to an additional 10,000 homes and businesses by the end of 2019. Our customers have long been ignored and forgotten by larger carriers and depend on us for adequate and reliable broadband. Our company's fiber network helps bring significant improvements to local businesses, education, community services, and public safety. Without UNE access, Race would be unable to provide service to a significant number of residents in Occidental, CA leaving them without vital emergency services.

8. We currently provide service to hundreds of residents in Occidental, CA—this project was deployed using a dark fiber UNE from the Occidental central office back to the San Francisco central office. This project would have been substantially more difficult and resource intensive had it not been for the ability to use the interoffice dark fiber UNE as part of the middle mile component. In fact, Race would more than likely have been unable to provide service to the community had it not been for this.

9. The loss of access to UNEs would affect Race's ability to continue to provide service to communities such as Occidental, CA. Specifically, Race would be forced to discontinue service to the community and abandon plans for expansion in the region. It would lead to a significant loss of investments and would negatively impact the residents and their access to health and fire services.

10. We have experienced that upon our entry into rural markets using existing middle mile systems and UNEs, existing providers have been forced to upgrade their networks to keep a significant market share. Our first residential fiber project that brought fiber to the home to an entire city was Boron, CA. Boron had the option of Spectrum (Charter) for video service only and Frontier for phone service, but neither company offered broadband. Today, Spectrum has improved its offering in the community and now offers speeds of up to 100 Mbps and offers more reliable and affordable phone and television services than in the past. The same is true in Phelan, CA. Since the announcement of our entry into this market, Frontier has begun deploying upgrades to its existing system in the community, though none of the upgrades have gone live and have yet to benefit the existing customers in the region. Occidental, CA is a market where the loss of our services could be detrimental. There have been no substantial upgrades on AT&T's part since our entry into the market. This fire-prone community in Sonoma County would be left without adequate broadband and vital communication services.

11. Without access to UNEs, it would be far less likely that Race could contemplate deploying new fiber facilities in communities such as Occidental as it would significantly increase the cost and resources needed to provide service.

**REDACTED – FOR PUBLIC INSPECTION**

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.

*/s/ Raul Alcaraz*

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Raul Alcaraz  
Chief Executive Officer  
Race Telecommunications Inc.

August 4, 2018

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Date

# **ATTACHMENT 15**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF R. MATTHEW KOHLY**

1. My name is R. Matthew Kohly. I am the Director of Government and Carrier Relations for Socket Telecom, LLC (“Socket”). My business address is 2703 Clark Lane, Columbia, MO 65202. At Socket, I am responsible for federal regulatory and legislative matters, state regulatory proceedings and complaints, including interconnection negotiations and arbitrations. I am also responsible for negotiating and maintaining Socket’s interconnection agreements with incumbent local exchange carriers as well as contracts with other telecommunications carriers and service providers. I manage the department that handles matters relating to our local exchange service operations, including ordering unbundled network elements (“UNEs”) from incumbent local exchange carriers (“ILECs”), number porting, and 911 service. In addition, I work on business development matters including planning where Socket will deploy fiber-optic network facilities.

2. I am filing this declaration on behalf of Socket in opposition to the Petition by USTelecom in WC Docket No. 18-141, In the Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks.

### **Background of Socket**

3. Socket is a privately held company headquartered in Columbia, MO. Socket's predecessor, Socket Internet, started out as an Internet Service Provider in 1994, focusing on bringing internet to the rural parts of Missouri. In many areas, Socket Internet was the first internet provider in the community. In 2001, Socket was founded as a facilities-based Competitive Local Exchange Carrier ("CLEC") and Interexchange Carrier ("IXC"). Socket continues to focus primarily on the rural areas of Missouri outside of Kansas City and St. Louis providing voice, data, internet, and video services to residential and business customers. As of May 2018, 81% of the DS1 Loops and DS1 EELs and 99% of the xDSL-capable loops that Socket relies upon in Missouri fall outside of the Kansas City and St. Louis Metropolitan Statistical Areas.<sup>1</sup> This is taking the broadest definition of an MSA by including an entire county even if only a portion of the county falls within the MSA. In many instances, Socket is the only competitive alternative available in these more rural areas.

4. Socket is a member of Federation of Internet Solution Providers of America, which is an association of smaller and midsize CLECs. Socket's Chief Operating Officer serves on its board and as an officer. We are also a member of INCOMPAS. Socket has been a member of Midwest Association of Competitive Carriers ("MACC"). Through participation in these organizations and other industry functions, we routinely interact with other carriers and understand that other CLECs are similarly situated to Socket and have the same reliance on UNEs and resale as Socket and use UNEs and resale as a market entry tool for deploying fiber optic network facilities.

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<sup>1</sup> For a definition of MSA, see <http://marc.org/Data-Economy/Metrodataline/General-Information/Statistical-Areas#msa> and <http://www.stlregionalchamber.com/regional-data/demographics>.

5. Socket competes against the AT&T (Southwestern Bell) and CenturyLink (CenturyTel of Missouri, legacy Embarq of Missouri, and Spectra Communications) ILECs and their families of national and international affiliates. These competitors are larger, have national brand names, and have more financial and business resources than new entrants such as Socket. AT&T boasts of being the largest communications company in the world, with 16 million internet connections in service.<sup>2</sup> CenturyLink claims to have 450,000 route miles of fiber and to be among the largest providers of communications services to global enterprise customers.<sup>3</sup> While nowhere near the size of the giant behemoths of AT&T and CenturyLink, Socket believes it is an effective competitor against these global companies in its markets; offering more advanced and customized services on more innovative terms of technology, billing, and customer service. Socket prides itself on its customer service and believes that is the reason many customers with a choice choose Socket. Socket relies upon a metric known as the “Net Promoter Score” (“NPS”) to ensure we are offering a superior level of service to our customers. The NPS measures a customer’s likelihood of recommending Socket to a friend or colleague.<sup>4</sup> Respondents answer on a scale from 0-10, with respondents answering 9 and 10 being classified as “promoters,” those answering 7-8 being classified as “passives,” and those answering 6 or below classified as “detractors.” The NPS is calculated by subtracting the percentage of detractors from the percentage of promoters. The industry average percentage NPS for telecommunications companies is 0 and some providers even have negative scores.<sup>5</sup> Socket’s recent residential survey from April 2018 covering all residential services showed a NPS

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<sup>2</sup> <https://investors.att.com/investor-profile>

<sup>3</sup> CenturyLink, Inc. Form 10-K, page 4.

<sup>4</sup> <https://customer.guru/net-promoter-score/>

<sup>5</sup> <https://customer.guru/net-promoter-score/centurylink>

percentage of 61.01, with many “promoters” commenting on Socket’s customer service and billing as the primary reasons they were likely to recommend that someone they know do business with the company. Socket provides its residential service using “Not a Penny More” billing, meaning the price we tell customers is the price they pay. Socket includes the taxes and surcharges in the quoted price and does not disguise additional charges to appear as required taxes, such as “Regulatory Cost Recovery Fee” or “Internet Cost Recovery Fee” as many of our competitors have done. Also, Socket does not impose usage caps on its internet services.

6. Through the use of its own fiber facilities, UNEs, and other services, Socket can provide telecommunications and data services to end-users in hundreds of exchanges in Missouri and neighboring states. Socket’s residential services include voice, video, and broadband services provided at speeds up to 1 Gbps over its own fiber network and voice and DSL-based internet services with speeds up to 50 Mbps when provided over UNE DS0 xDSL-capable copper loops. Over 75% of the copper DS0 loops that Socket leases are used to serve residential customers. Socket’s small business services include voice and internet services up to 1 Gbps over its own fiber network and voice and DSL-based internet services up to 100 Mbps when provided over UNE xDSL-capable copper loops when provided using ADSL and VDSL technologies. Over both its own fiber network facilities and leased UNE facilities, Socket provides advanced services such as MPLS, dedicated data, packet-based services, and other telecommunications services such as hosted PBX voice service. Socket is able to provide these same services at greater speeds and with more reliability over its own fiber network than leased UNE facilities; which is why Socket prefers to use its own fiber network when it is available.

7. As stated earlier, Socket focuses more on rural markets in Missouri outside of Kansas City and St. Louis. Socket provides service in a number of exchanges where Socket is



the only competitive choice. Socket's customers include churches, K-12 schools, universities and community colleges including their satellite locations, medical facilities, skilled nursing and long-term care facilities, ambulance districts, law enforcement agencies, governmental entities, as well as your standard businesses. Socket also serves residential customers. In the event this Petition is granted, many of these customers will lose their competitive choice and only be able to purchase service from the ILEC.

8. Even when a county may have a cable company serving a town in the county or a fiber middle-mile transport carrier serving other carriers and a few larger enterprise customers, that does not represent a competitive option for residential and small to medium-sized business consumers not located in the current footprint of a cable company or the fiber-carrier serving only carriers and enterprise level customers. It is our experience that cable companies are generally not investing to expand their networks in rural towns or, in some cases, even to new customer sites within their current network footprint. In central Missouri, I am working with several real estate developers who have told me CenturyLink is not expanding into new residential areas unless the developer pays them to do so. We have also seen where the cable company is not expanding into new residential developments. Socket deployed facilities in some of these areas at no cost to the developer. Because of this, there are residential areas where Socket is the only telecommunications and broadband provider. Several of these areas are supported by a Socket fiber-optic transport ring that has UNE interoffice dark fiber in portions of it. Over time, Socket has replaced some segments of this ring with its own interoffice dark fiber as it deployed it and will continue to do so as it expands.

9. Likewise, AT&T has refused to expand into new residential developments in some areas. For example, there are subdivisions central Missouri where there are no landline

services available in exchanges where AT&T is the incumbent because AT&T refused to install any landline facilities. Based upon discussions with city officials, AT&T continues to not install landline facilities to new residential subdivisions in the area. This is occurring in exchanges where Socket purchased UNE DS1 EELs to initially serve customers and is now installing fiber-optic broadband to provide telecommunications and broadband services to business and residential customers. Socket is currently working with a developer in another rural AT&T exchange to install fiber-optic broadband facilities to a new subdivision where neither AT&T nor the cable company is deploying facilities. This is also an exchange where Socket initially provided voice and broadband services in the exchange with DS1 loops and EELs, later expanded service offerings by relying xDSL-capable loops, and is now deploying fiber-optic broadband facilities to serve residential and business customers. Had the incumbent LEC deployed fiber-supported networks in these situations, these DS0 copper loops would not have been required to be unbundled. Clearly, the availability of UNEs does not create a disincentive for investment in networks as the Petition claims, as Socket continues to expand its networks in markets where UNEs were available and the ILEC could have deployed new fiber-based loop facilities in these locations without unbundling obligations.

10. It is also our experience that fiber middle-mile transport and enterprise level providers do not move down-market to serve small to medium-size businesses and residential consumers even in areas where they have fiber facilities. Also, many of these larger middle-mile and enterprise level providers only provide data services and do not provide any voice services. Without Socket's access to UNEs to help construct networks to build customer bases and expand its network, consumers and businesses in these situations will lose their competitive choice because the only other provider is the incumbent.

11. While regulators tend to disregard traditional TDM-based technologies such as local ISDN-PRI and consider these to be outdated, the FCC still recognized that TDM services remain necessary for customers because of higher prices of packet-based services or costs associated with replacing equipment that rely on legacy TDM services.<sup>6</sup> Legacy TDM services include everything from plain old telephone service to ISDN-PRI service. There are exchanges in Missouri where no other carrier besides Socket provides local ISDN-PRI service. In most of these exchanges, Socket is only able to provide this service at this time through the use of UNE DS1 Loops and DS1 EELs until it can deploy its own facilities or find another option. While the lack of local ISDN-PRI service from carriers besides Socket occurs in the non-metropolitan areas, it is not limited to counties that the Federal Communications Commission (“FCC”) classified as non-competitive in the BDS Order. Local ISDN-PRI allows these customers to send multiple Caller ID numbers letting them differentiate specific locations or departments. Being able to differentiate specific locations is critical for customers in a campus environment needing to make emergency calls to law enforcement or emergency response agencies to let them know the specific location of the emergency. An example of a Socket customer where this service is critical is a state law enforcement agency that needed a local ISDN-PRI as a fail-over service to route calls to its headquarters site in the event the remote site served by Socket lost connectivity. Without the law enforcement agency incurring the cost of upgrading its current telephone equipment, this fail-over functionality while retaining feature parity is not possible without the functionality provided by a local ISDN-PRI at the remote location served by Socket. Socket provides this service through UNE EELs. Socket would not be able to provide this

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<sup>6</sup> *Business Data Services in an Internet Protocol Environment*, Report and Order, 32 FCC Rcd. 3459, 3471 ¶ 25 n.70 (2017) (“BDS Order”)

service and meet this customer's needs with access to UNE EELs. To our knowledge, Socket is the only competitive choice this customer had to meet its specific needs.

12. Through its interconnection agreements with the ILECs, Socket interconnects for the exchange of voice traffic. Socket leases UNEs including inter-office dark fiber, xDSL-capable copper loops, DS1 loops, DS1 EELs, which are combination DS1s loops, cross-connects, and DS1 interoffice transport, DS-3 loops. Socket is also connected through ILEC selective routers to 99 Public Safety Answering Points ("PSAPs") for providing E-911 services and can provide Basic 911 in 35 additional exchanges where public agencies have not yet purchased E-911 service from the ILECs and have not established PSAPs. Socket relies upon UNE facilities and trunking purchased through its ICAs to reach these selective routers.<sup>7</sup> Socket also relies upon 911 call routing services and access to 911 databases provided by incumbents purchased through our ICAs.

13. Socket also uses Section 251(c)(4) avoided-cost resold services purchased through its ICAs to provide voice services in some situations. This is especially useful in reaching small, remote locations that only need voice-services.

14. Socket provides voice services, DSL-based internet services, and more advanced data service over various xDSL technologies including ADSL, VDSL, SHDSL, and HDSL over DS0 xDSL-capable loops. Socket's residential DSL service provided over DS0 xDSL-capable loops has speeds up to 50 Mbps while the business DSL service has speeds up to 100 Mbps.

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<sup>7</sup> In Missouri, ILECs charge public safety agencies for providing E-911 services, including charging for facilities and trunking from central offices to the central office where the ILEC's selective router is located. Under arbitration decisions, CLECs such as Socket pay the ILECs for facilities and trunking to connect from the Point of Interconnection to the ILEC central office where the ILEC's selective router is located. I am not aware of any CLEC, including Socket, which has been permitted to charge a public safety agency for providing E-911 service and recover these costs. This is another example of the disparity between ILECs and CLECs.

Through the use of SHDSL service, Socket can provide dedicated Ethernet over copper service to speeds in excess of 200 Mbps over UNE DS0 xDSL-capable loops.

15. Socket also relies upon DS1 and DS3 loops and DS1 EELs to provide voice and data services to areas that cannot be reached with xDSL-capable loops. Socket can provide standard TDM voice services over these as well as packet-based services, dedicated internet, and advanced data and telecommunications services. Socket can stack or bond DS1 loops or EELs together to reach higher bandwidth levels for voice and data services. By using UNE DS1 EELs, Socket does not have to be collocated in the same wire-center as the customer and can provide service to distant customers. This is especially useful in reaching remote customers such as rural schools, medical clinics, and businesses as well as customers with multiple locations where Socket is the only competitive choice. A previous FCC decision limits the number of EELs that a CLEC may purchase to a single site to ten. This limits the data speeds to a maximum speed of 15 Mbps via bonded DS1s.

16. To access these UNEs, Socket is collocated in numerous ILEC central offices and wire-centers throughout Missouri. Socket has additional collocation applications pending and was in the process of submitting other collocation applications when this Petition was filed. Socket is connected to several of its collocation facilities through the use of unbundled inter-office dark fiber. Where feasible, Socket also connects some of its collocations through the use of its own fiber transport facilities.

17. The purported economic study attached to the Petition dismissively equates CLECs relying on UNEs as “asset-light service providers” with no incentive to build their own networks. That unequivocally is not true in the case of Socket. Socket’s goal is to add as many customers on its own network as possible. Socket currently has over 500 miles of its own fiber

transport and distribution network serving both residential and business customers. Socket continues to expand that network and is actively constructing new network facilities. This is taking place in markets where Socket started with no outside plant but was serving customers via Section 251(c)(4) avoided-cost resold services and UNEs; including exchanges where Socket is currently collocated and continues to rely upon to UNEs as it expands its network.

18. Socket is investing in its facilities. As will be explained in more detail, access to UNEs makes this construction possible. This clearly demonstrates that access to UNEs does not create a disincentive for investment and the construction of Socket’s own network.

#### **Requirement for Granting Forbearance**

19. In granting forbearance, the FCC can only forbear from any statutory provision or regulation if it determines that: (1) enforcement of the regulation is not necessary to ensure that the telecommunications carrier’s charges, practices, classifications, or regulations are just, reasonable, and not unjustly or unreasonably discriminatory; (2) enforcement of the regulation is not necessary to protect consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest.<sup>8</sup> In making such determinations, the Commission also must consider pursuant to section 10(b) “whether forbearance from enforcing the provision or regulation will promote competitive market conditions.”<sup>9</sup>

20. USTelecom’s Petition request does not meet that criteria. In fact, quite the opposite. If granted, USTelecom’s Petition would harm competition, harm consumers, is not in the public interest, and would allow for discriminatory practices and charges. It is also

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<sup>8</sup> 47 U.S.C. § 160(a).

<sup>9</sup> 47 U.S.C. § 160(b).

unnecessary as there are already natural forbearance mechanisms in place that can provide the relief from providing UNEs that USTA is seeking.

21. The Commission has recently recognized the importance of UNEs as a competitive alternative.<sup>10</sup> In approving the merger of XO Holdings and Verizon Communications Inc., the Commission confirmed that UNEs were readily available and would continue to be available to other competitors in the future.<sup>11</sup> The continued availability of UNEs was confirmed as recently as the BDS Order.<sup>12</sup> Granting USTelcom's Petition would be contrary to these recent findings.

**Socket Relies Upon UNEs as Means for Building a Customer-Base and Reducing Barriers to Entry to Enter Markets and Deploy Fiber Facilities**

22. Socket is actively constructing new fiber optic network facilities in exchanges where Socket has an existing customer base served via UNEs. This includes markets where Socket is collocated and serving customers through DS0 copper and DS1 loops and in markets where Socket is not collocated but is serving customers through DS1 EELs. The Commission recognized that CLECs rarely build on speculation.<sup>13</sup> That is true for Socket; a carrier of Socket's size does not have, and cannot raise, capital to spend based upon speculation. The use of UNEs is an important tool in allowing Socket to develop a customer base so that it can later deploy a fiber-optic broadband network to reach those customers. Prior to collocating in an exchange, Socket can use DS1 EELs to serve customers as that does not require Socket to have facilities in the same wire-center as the customer. Over 50% of the UNE DS1 circuits that

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<sup>10</sup> BDS Order, 32 FCC Rcd. at 3470, 3476 ¶¶ 21, 32-34.

<sup>11</sup> *Application of XO Holding and Verizon Communications Inc. for Consent to Transfer Control of Licenses and Authorizations*, WC Docket No. 16-70, Memorandum Opinion and Order, WC Docket No. 16-70, 31 FCC Rcd 12501, 12516-17 ¶ 30 (*Verizon/XO Order*)

<sup>12</sup> See n. 10, *supra*..

<sup>13</sup> BDS Order, 32 FCC Rcd. at 3459 ¶ 50.

## REDACTED – FOR PUBLIC INSPECTION

Socket purchases as UNEs are EELs. This allows Socket to develop a customer base in an exchange prior to deploying facilities in an exchange to help fund the construction of a network. Serving an area with EELs requires Socket to establish 911 in that exchange. If the public safety agency for that area has purchased E-911 from the ILEC in that exchange, Socket will need to purchase facilities and trunking from the ILEC through our ICA to connect to its selective router and need access to the E-911 database for placing subscriber records.

23. With the start of a customer base served via EELs, Socket can then collocate in an ILEC Central Office and expand its product offering through the use of DS0 loops and DS1 loops. This allows Socket to provide residential voice and broadband services as well as expand its business service offerings to a broader range of businesses; from small businesses purchasing just voice lines and DSL service to enterprise level businesses purchasing more advanced telecommunications and data services. In many instances, Socket relies upon UNE Interoffice Dark Fiber for connecting these collocations back to its network.

24. With the start of a customer base, Socket can then begin constructing a fiber-optic network to reach its existing customers. Socket is also able to add additional customers as it deploys its own network as it is able to expand its service offerings and its presence in a market. Without an existing customer base providing a cash-flow, it would be much more difficult to fund the construction of a fiber-optic broadband network.

25. Just as one example, Socket overbuilt the small town of Fayette, MO with fiber to the residences, businesses, and public agencies. This small town with less than 3,000 people has three middle-mile fiber transport carriers, two of which also offer service to enterprise customers. It also has AT&T as the incumbent providing telecommunications services in the town. The cable company had recently withdrawn services from the town. For small and



medium size business the only choice of landline broadband and voice services was the ILEC and Socket via UNE DS1 EELs. Residential customers had no choice for landline broadband and voice service until Socket deployed fiber facilities in the town.

26. Initially, Socket was able to build a customer base to serve small and medium sized businesses through the use of DS1 EELs. With that customer base, Socket was able to deploy a fiber network and serve those customers and gain additional customers as it built the broadband network. Through its fiber broadband network, Socket initially served the business customers and public agencies but later expanded to serve residential customers. This is just one example of a community where Socket was able to use UNEs to initially serve a market and then later construct a fiber network. Examples such as this would not be possible without access to UNEs. This example also demonstrates one where Socket still remains the only competitive telecommunications and broadband choice for residential and small and medium sized business customers despite the fact that there are four other companies with fiber-optic telecommunications facilities in the town.

27. The use of UNEs also allows Socket to lower the barriers to entry into a new market. Socket is currently working to deploy fiber-optic facilities in three new markets, expanding fiber-optic facilities in almost of all of its existing fiber markets, and is researching additional UNE markets where Socket can deploy broadband facilities. In entering new markets with its own facilities, Socket faces ILECs as a competitor and sometimes a second provider if there is a cable provider in that exchange. Both have established networks serving a broad customer base. In some cases, there may be an additional regional competitor that is a transport provider that may also offer service only to large enterprise customers. These carriers have an incumbent competitive advantage and do not face the same barriers to entry as Socket faces as a

new entrant. These barriers to entry include the length of time it takes for the initial construction of a network in a new market, and the higher cost of constructing a new network in a brownfield environment with established business or residential areas, among others. Without access to UNEs, the higher cost of building a network without an existing customer base to financially support that network is even more burdensome. Socket relies upon UNEs and resold ILEC service to enter markets by lowering barriers to entry.

28. Building a new network in established business or residential areas takes significant time. In the BDS order the FCC concluded that a network construction build could be done in three to four months.<sup>14</sup> This conclusion, if correct, was for a network extension and not the initial construction of a new network. The initial construction of building a backbone and establishing a new network can take much longer. The new entrant often has to obtain a pole attachment agreement, learn the permitting process with the municipality, research right-of-way and easement locations and rules, obtain construction and right-of-way permits, line-up a backhaul solution, obtain easements for locating a hut or cabinet, if necessary, easements for placing facilities, as well as complete a fairly extensive backbone, lateral and drop build. This takes longer and is more costly than just merely the half mile network extension contemplated by the BDS Order.<sup>15</sup>

29. The incumbent does not face similar costs or obstacles. For example, Socket has experienced instances where the incumbent was able to deploy fiber to the home network facilities much more quickly and less costly than if Socket had made the same build. The incumbent was able to use their existing plant records to have pre-engineered facilities designed

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<sup>14</sup> BDS Order, 32 FCC Rcd at ¶ 50.

<sup>15</sup> Ibid.

and manufactured. They then simply over-lashed these facilities to their existing aerial copper facilities with no permitting or pole engineering analysis. Their construction was faster and much less expensive than if Socket had installed comparable facilities in this same area. For Socket to do the same build in that area, it would have required a pole engineering analysis, potentially make-ready work to get the poles ready for new facilities, coordinating moving existing facilities with the incumbent to make room for Socket's facilities on those poles<sup>16</sup>, installing Socket's new attachments and strand, and then lashing Socket's new fiber facilities to that strand.

30. Costing more and taking longer for a new entrant is also true in the case of underground construction where it is also much more costly and time consuming to deploy facilities in a brownfield environment where businesses and residences are in established areas. It is Socket's experience that when constructing underground facilities in established residential and business areas, the cost of boring alone can be anywhere from 6 to 20 times more expensive than constructing facilities in a greenfield environment. This demonstrates the importance of having an existing customer base rather than building on speculation. The impact of this can be somewhat mitigated through the use of UNE loops and EELs as Socket can turn-up service using these UNE facilities, build a customer base, earn revenue, and then move customers to its facilities once they are complete.

31. There are additional disparities that affect construction as well. Socket routinely has to stop construction to explain to upset property owners that Socket does, in fact, have a legal

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<sup>16</sup> On August 2, 2018, the FCC adopted its Third Report and Order and Declaratory Ruling in **Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment**, WC Docket No. 17-84, WT Docket No. 17-79, implements a one touch make-ready process for pole attachments. When effective, this will simplify the process for simple make-ready for wireline attachments. While Socket certainly supports implementing an OTMR process and ending the moratorium on placing new poles, this is only one step in an otherwise time consuming process that the ILEC typically does not face.

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right to be in their back yard installing new network facilities because there is an existing utility easement, has to obtain additional permits for its crews to construct facilities after regular hours, and various other items in order to avoid having its crews shut down and delaying construction. In some communities, Socket has faced a moratorium on new entrants installing poles in the Right-of-Way, even in instances where electric transmission lines were in the same area. This prohibits Socket from using aerial facilities to avoid the costly expense and time of directional drilling through solid rock. Meanwhile, in most of these instances, the incumbent is just assumed to be doing maintenance and does not face similar obstacles. While these items may seem immaterial, they compound, add time, expense, and delays to the construction process. Often, access to UNE loops and EELs can be used as a transitional mechanism to provide service while new entrants such as Socket work through these disparities and deploying its own facilities. Having an existing customer base served through UNE facilities also allows Socket and similarly-situated new entrants to withstand the competitive response advantages the incumbent providers have because of their existing networks. For example, once an incumbent realizes Socket is building a fiber network in one of their exchanges or cable serving area, they are able to lock up customers with term contracts while Socket constructs its fiber network; preventing customers from switching to new entrants. Having an existing customer based served through UNEs mitigates this as Socket can provide service while it constructs its network and keep customers from signing term contracts with the incumbents. In a several instances, Socket used xDSL-capable DS0 loops and provided deeply discounted service to residential customers while it constructed its fiber network in order to keep them from signing term contracts with the ILEC and the cable company.

32. In many instances, the ILEC has one other distinct advantage. That is the copper networks they are being required to unbundle were funded, at least in part, from “regulatory revenues” that they received by virtue of being an ILEC. According to CenturyLink, these annual regulatory revenues “consist of Universal Service Fund ("USF") and Connect America Fund ("CAF") support payments and other operating revenues.”<sup>17</sup> CenturyLink describes the USF and CAF revenues as, “government subsidies designed to reimburse us for various costs related to certain telecommunications services.”<sup>18</sup> In 2017, CenturyLink reported receiving \$732 million in regulatory revenues, which is about half of the almost \$1.5 billion in dividends CenturyLink paid out to its shareholders in 2017.<sup>19</sup> All retail interstate telecommunications revenues, including Socket’s, are assessed the USF and CAF fees to provide payments to ILECs and their shareholders. You would be hard-pressed to conclude this does not provide the incumbents with a competitive advantage.

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<sup>17</sup> CenturyLink, Inc. Form 10-K, Fiscal Year ended December 31, 2017, pg. 54.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid. pg. 55, Ibid, pg. 140.

**UNEs Provide a Means for a CLEC for a Ubiquitous Network to Compete with Larger Competitors and Meet Customer Needs**

33. Access to UNEs is necessary for Socket and similar CLECs to have the capability of having ubiquitous networks to serve customers where we have not yet constructed or have yet found ways to serve these locations with commercially available services with pricing, terms, and conditions that are just and reasonable. This is especially true for serving multi-location customers and is necessary in order for Socket to compete with the larger ILECs and their competitive affiliates who enjoy these marketplace advantage of ubiquitous networks and economies of scale.

34. A significant percentage of Socket's business customers have multiple locations. These customers range from customers with one main location with several satellite locations to customers with numerous locations where each would be considered small to medium sized businesses. In either scenario, the sites can be spread across broad geographic areas, with locations often in rural areas, and where Socket is frequently the only competitive option they may have.

35. In order to seriously compete in this market segment, a carrier must be able to provide a full-range of telecommunications and data services with end-to-end connectivity between these customers' various locations, while ensuring high quality and reliable service, and do so at competitive prices. Even small gaps in coverage results in a significant competitive disadvantage. The services these customers need ranges from basic local and long distance voice service, ISDN-PRI services, private lines, and dedicated Ethernet services to more advanced and sophisticated services such as MPLS and WAN services and related services such as data backup, storage, and retrieval services.

36. This is why access to UNEs loops, EELs, inter-office dark fiber is so critical. No new entrant of Socket's size can compete with incumbents and their nationwide competitive affiliates without access to UNEs. Socket can do so using a combination of its own network facilities and piecing networks together from multiple ILECs through its ICAs that allow access to UNEs and resale, as well as competitive options where available, and combining these components together to form virtual end-to-end networks. In many instances, Socket has deployed its own last mile fiber facilities to reach some of these customer locations. Socket will then supplement its own facilities with access to UNEs or resold ILEC services until it can deploy its own facilities.

37. As an example, Socket has one customer with over 90 locations. This customer is a health care provider that provides skilled nursing, assisted living, and senior services, with facilities spread throughout Missouri. Most locations are in rural areas and considered to be small to mid-sized businesses. Socket serves their locations by purchasing UNE DS0 and DS1 Loops, UNE DS1 EELs, resold ILEC services, and where possible, using Socket's own fiber facilities. Socket continues to expand its fiber network to reach this customer's locations and convert them over to its own network. While Socket sought competitive options besides UNEs and resale for all of these locations, Socket was only able to find competitive alternatives for two of them. In those two locations, Socket is purchasing circuits from XO, now affiliated with Verizon, under a term plan. Without access to UNE and ILEC resold services, Socket would not be able to serve this customer, meet this customer's needs, and provide a competitive alternative. In most of the exchanges where this customer is located, including ones located in counties the FCC has classified as competitive in the BDS order, Socket is the only competitive alternative this

customer has. Granting this petition would be the opposite of protecting consumers and promoting competition.

38. Another example of a multi-location customer served through a combination of its own facilities and UNEs is a community college where Socket serves the main campus with its own fiber, but serves satellite campuses in other exchanges through EELs. Socket provides telecommunications and dedicated data services to the main location and these same services with backup call routing at the remote locations. The only way Socket could serve this multi-location community college and provide it with a competitive choice for all of its locations is through the availability of DS1 EELs. Over time, Socket will convert these satellite locations to its own network or seek other options as we expand our network to additional communities in Missouri. Socket is currently in the process of converting one of the satellite locations to its own recently expanded network.

39. Customers such as this need a competitive choice that can serve all of its locations. This is not just for mere convenience purposes such as single bill. This is required for Socket to have the ability to provide integrated network services such as MPLS, hosted voice services, or failover capabilities. This also allows these customers to have a single point of accountability for the telecommunications services they purchase. It also allows them to operate their satellite locations or branch offices as extensions of the primary location, allowing them to shift traffic across their networks in the event a power interruption or disaster threatens to disrupt services at one location.

40. The need for UNEs to provide for a ubiquitous network is not limited to broad geographic areas. The same needs also exist within the same exchange for customers with multiple sites within the same exchange. Socket may be collocated and relying upon UNEs DS0



and DS1 loops while also having fiber facilities in that same exchange. In this scenario, Socket may be able to reach one of the customer's locations with its own facilities but not the customer's other locations within the same exchange because of the cost of construction to reach all locations. Over time, Socket will be able to expand its broadband network to reach the other locations and convert them to its own network

41. Accessing UNEs and allowing the CLEC to have a broad ubiquitous network also allows CLECs such as Socket to turn-up customers quickly while expanding its own network facilities. This is necessary when competing with an incumbent provider that already possesses a ubiquitous network with facilities into a customer location that is able to turn-up customers in a matter of days as compared to a new entrant that may take weeks to place a drop or months to expand its existing network to reach a customer location. In today's on-demand society, potential customers simply will not wait for a new entrant such as Socket to construct network facilities to reach their locations. Access to UNE facilities provides an important stop-gap for meeting this demand.

42. These examples also demonstrate that the availability of UNEs is not a deterrent for Socket and similarly situated carriers to deploy their own last-mile fiber networks as claimed by USTelecom. Quite the opposite, the availability of UNEs is what makes it possible for Socket to deploy its own network to customer locations. The ongoing availability of UNEs makes it possible for Socket to keep providing customers with a competitive choice where it will not be possible to deploy fiber in the near term and certainly not based upon the speculation of hopefully gaining customers.

**Eliminating UNEs will create significant stranded investment and termination expense**

43. Socket has invested millions in establishing collocation arrangements in ILEC central offices, purchasing equipment to place in these collocation arrangements, and paying UNE non-recurring charges (“NRCs”) to obtain UNE loops and interoffice dark fiber. Socket has also invested in constructing its own fiber-optic network facilities to connect collocation arrangements. In addition, Socket has entered into transport agreements with third-party carriers to connect collocation arrangements. In many cases, these agreements are with affiliates of the Petitioners. These transport agreements have contractual obligations such as early termination fees (“ETFs”) and waived NRCs that Socket will have to repay if cancelled. While collocation arrangements may not be directly eliminated if the Petition is granted, there is no need for a collocation arrangement if it cannot be used to access UNEs. This significant investment would become stranded if the Petition were granted. Additionally, Socket would incur additional expenses from having to pay ETFs and waived NRCs when it cancelled transport circuits that were no longer needed. Socket would even have to pay ILEC collocation NRCs to file applications and pay for decommissioning work in order to abandon existing collocation arrangements.

44. This stranded investment and additional expenses is true even with the transition period proposed by USTelecom. Socket is in the middle of a major core network re-configuration that is requiring Socket to enter into new 36 or 60 month contracts that involve transport between collocation arrangements. Socket cannot simply put this network reconfiguration on hold pending this Petition proceeding. Several of Socket’s current transport arrangements terminated in June of 2018. This forced Socket to enter into new 36 month contracts to have transport arrangements in place after these terminated. These arrangements

include routes between collocations which would become wasted expenses in the event this Petition is granted.

45. In addition to eventually becoming stranded, the investment in collocations, UNE non-recurring charges, and transport expenses would become immediately devalued because of the proposed moratorium on ordering additional UNEs. Limiting UNEs only to the embedded base would mean that Socket could not even respond to simple requests, such as adding an additional line, or accommodate requests for a move. This does not even address the larger problem of not being able to serve new customer locations or adding new customers. Limiting UNEs only to the embedded-base during a transition period will place serious competitive limitations on new entrants such as Socket.

**Commercially Available Services are Not Options**

46. Commercially available services offered by ILECs are not feasible options to replace UNEs. First, there are no commercially available options for DS0 copper loops offered by any ILEC that I am aware of. Certainly, there are none in Missouri offered by AT&T or CenturyLink that Socket could utilize to serve customers out of its current collocations. Over half of Socket's collocation arrangements in ILEC central offices are at remote locations where the only UNE loops that Socket can access are UNE DS0 copper loops, as DS1 and DS3 UNEs are not available at these locations.

47. Unlike a commercial offering, such as a special access services, DS0 copper loops do not include ILEC electronics that determine what services can be offered over the loop. Rather, Socket can deploy its own electronics on either end of the DS0 loop. In this way, Socket can customize and control the services provided over the DS0 loop, including service quality and security. This provides greater flexibility than purchasing finished services such as UNE-P replacement voice services or resold DSL services does not.

48. Businesses, including health care providers, banking customers, and governmental entities, as well as traditional businesses, have specific service requirements that demand copper DSO loop-based services for a number of reasons, one of which is that the service is line-powered and is therefore more reliably available than other voice services, such as VoIP services, which require power at the customer premises. In light of this characteristic, these customers rely on TDM-based business telephone service for medical alerts, fire/sprinkler monitoring, gas pipeline monitoring, bank vault, burglar alarms, elevators, and even back-up data connections. They do not view other voice services, including VoIP services or wireless voice services, as substitutes for TDM-based telephone services

49. With no commercially available option for access to DS0 copper loops, there are services, market segments, and significant investment in collocations and equipment that Socket would just have to abandon.

50. Similarly, there is typically no competitive alternative for dark fiber between incumbent central offices. Very few competitive providers sell dark fiber; especially outside of the metropolitan areas. Even where they do, it is not between incumbent central offices, as these providers are not collocated in those central offices. Access to interoffice dark fiber is critical to Socket to be able to connect collocations in incumbent central office in order to connect those to its own network.

51. Special Access DS1s and DS3s are also not feasible options for several reasons. First, is the just the sheer cost. For example, with CenturyLink of Missouri, Special Access DS1 Loops can range from 140% to 189% higher than Socket's average cost of UNE DS1 loops depending on the term. Combinations of Special Access DS1 Loop and DS1 Transport range

from 368% to 390% higher than Socket's cost of UNE DS1 EELs. These are costs that a new entrant simply could not absorb and Socket's customers cannot pay.

52. The fact that the Petition originally proposed a 15% increase in all UNE rates demonstrates the incumbents believe they have the market power to subject Socket and similarly-situated UNE customers to significant price increases. Even if USTelecom is no longer proposing that the initial 15% price increase applies to the existing UNE-base, it does propose that all new UNEs purchased during the transition period would be addressed via "commercial negotiations or at tariff services". It is my belief that the fact that USTelecom already proposed a 15% increase in all UNE rates demonstrates the minimum price hike we can expect for new orders would be at least 15% and, given their market power, most likely much higher.

53. In addition, Special Access circuits come with a term; typically one to three years. Socket relies upon UNEs to build a customer base and then convert that base to its own network once it completes the construction of that network. Purchasing circuits under a term delays that process as Socket would have to wait for that term to expire or pay the ILEC early termination fees. Clearly, abandoning UNEs in favor of Special Access creates a barrier to entry in this situation.

54. There is also no guarantee that commercially available services will continue to be available, much less available on commercially favorable terms. CenturyLink itself recognizes the risk of relying upon purchasing network capacity and services from other companies; especially those that compete against it. CenturyLink recently reported to its shareholders that, because of its reliance upon third-party networks, it was "exposed to the risk that the other carriers may be unwilling or unable to continue or renew these arrangements in the future on terms favorable to us, or at all. This risk is heightened when the other carrier is a

competitor who may benefit from terminating the agreement or imposing price increases”.<sup>20</sup> CenturyLink went on to report, “If we lose these arrangements and cannot timely replace them, our ability to provide services to our customers and conduct our business could be materially adversely affected.”<sup>21</sup> The concern about this risk is from the second-largest U.S.-based communications provider to global enterprise customers<sup>22</sup>. Obviously even a carrier of Socket’s size would share in that same concern.

55. Socket’s concern about the loss of access to commercially available services is heightened by the terms and conditions of some of its contracts for commercially available Ethernet services provided by incumbents LECs or their affiliates. In these contracts, there are provisions that allow the underlying provider to cancel existing contracted services or limit the future availability of services. Meanwhile in order to purchase services under these contracts, Socket is required to enter into binding purchase orders with the underlying provider for services with one to three year terms and early termination penalties if Socket cancels the service prior to the end of the term. With these terms, the underlying provider is completely protected in the event Socket cancels service early while Socket is left completely at risk if the underlying provider decides to cease providing the wholesale service.

56. The loss of UNEs would also have a serious negative impact on Socket’s customers. Given the unavailability of comparable facilities to DS0 copper loops and the uneconomic terms of commercially-available substitutes for DS1 and DS3 loop and transport services, Socket will be required to cease serving some customers or cease providing certain services to customers. This would include Socket ceasing to provide service to its entire base of

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<sup>20</sup> CenturyLink, Inc. Form 10-K, Fiscal Year ended December 31, 2017, Page 28.

<sup>21</sup> Ibid.

<sup>22</sup> CenturyLink, Inc., 2017 Annual Report and 2018 Annual Meeting Documents, page 1.

residential, business, and governmental customers receiving voice and DSL services from Socket that are provisioned over DS0 xDSL-capable loops where Socket could not construct broadband facilities prior to the end of the transition period.

57. For customers where Socket could theoretically provide service to them via commercially available substitutes, such as DS1 and DS3 special access services, the cost increase would be so great that customers could not afford services from Socket and would effectively lose their competitive option.

**ILECs Have Existing Forbearance Remedies Including the Ability to Shed Their Unbundling Obligations**

58. The Triennial Review Order (“TRO”) and Triennial Review Remand Order (“TRRO”), as well as Socket’s existing ICAs provide that ILECs already can stop providing UNEs in certain competitive situations. For example, in the case of DS1 loops, incumbents are not required to provide unbundled DS1 loops in wire centers with at least 60,000 business lines and four fiber-based collocators. Socket has faced both the prohibition on ordering DS1 loops in certain ILEC central offices and the 10 DS1 cap in several situations. This demonstrates that these forbearance provisions are effective.

59. By limiting the quantity of DS1 loops to a single building to a maximum of ten loops, resulting in a maximum speed of 15 Mbps, DS1 loops and DS1 EELs also face a natural forbearance as the size of business consumer’s bandwidth demand increases over time. The speed at which this occurs will be increased depending upon how quickly the ILECs upgrade their networks. The ILECs can increase the drop in demand for DS1 loops and DS1 EELs by accelerating their supply of broadband and next generation networks at competitive rates for consumers. The relief from unbundling these facilities is within their own hands and relieving them of this obligation removes any incentive to upgrade their existing networks.

60. Incumbents also do not have to unbundle dark fiber loops or hybrid loops; which are loops that have a portion of the loop made up of fiber. They simply have to deploy fiber facilities and retire their copper facilities; meaning incumbents no longer have to unbundle copper loop facilities. This fiber deployment can even be paid for by USF and CAF subsidies discussed above. This acts a natural forbearance and that actually creates an incentive for the ILECs to deploy fiber in their networks. This natural forbearance is what should actually accelerate the incumbent's investment in broadband and advanced networks.

61. This does not mean the incumbent necessarily has to deploy fiber to the premises to achieve in practice substantial elimination of unbundling obligations. In some cases where Socket has lost access to copper DS0 loops, the incumbent deployed fiber facilities in the feeder portion of the loop to feed remote cabinets and then retired the copper feeder cable. This created hybrid loops since a portion of the loop now contained fiber and the incumbent did not have to unbundle that loop. In these scenarios, the incumbent received what it is seeking here—relief from its obligation to provide Socket with unbundled DS0 loops from the central office to the end user (although not subloops if the CLEC could reach the remote terminal, which is more difficult for the CLEC). The incumbent achieved this by investing in placing fiber in that portion of its network. Granting this Petition would actually remove that incentive.

### **Conclusion**

62. For the reasons provided above, this Petition must be denied as it does not meet the requirements for granting forbearance. The unbundling requirements of Section 251 and 252 still serve their original goal, which is to “let anyone enter any communications business -- to let any communications business compete in any market against any other.”<sup>23</sup> These requirements

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<sup>23</sup> <https://www.fcc.gov/general/telecommunications-act-1996>.



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are still important tools for new entrants such as Socket to use when entering telecommunications markets to compete against much larger incumbent carriers. These requirements ultimately allow new entrants such as Socket to be able to construct broadband networks and deploy more advanced and innovative services, ultimately promoting a competitive marketplace and the public interest.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.

/s/ R. Matthew Kohly

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R. Matthew Kohly

8/3/2018

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Date

# **ATTACHMENT 16**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition of USTelecom for Forbearance	)	WC Docket No. 18-141
Pursuant to 47 U.S.C. § 160(c) to Accelerate	)	
Investment in Broadband and Next-Generation	)	
Networks	)	

**DECLARATION OF DUSAN JANJIC**

1. My name is Dusan Janjic. I serve as President at Virginia Global Communications systems, Inc. (“VGCS”). I have been with the company for 22 years. My responsibilities include overseeing day-to-day operations of the company. As a rural provider of broadband services, we rely on unbundled loops to deliver broadband in rural areas of Rockbridge County, Virginia – the single county where VGCS provides service.

2. VGCS offers voice and broadband services to residential and small and medium-sized business customers in Rockbridge County. The county is located in west central Virginia, west of the Blue Ridge Mountains. Although both Interstate 64 and Interstate 81 cross the county, it is otherwise a very rural area. The total population (2010 Census) is 22,307, of which a total of 13,850 reside in the two independent cities of Lexington and Buena Vista. The rest are scattered throughout the county in small villages, very small subdivisions, and individual homes. The county is subdivided by a mountain, has several other mountains, many hills, and a fairly narrow river valley. Many homes are in isolated valleys. Because of this topology, wireless data coverage and even cell phone service becomes unreliable in the more rural parts of the county, and fixed wireless cannot be deployed in many areas. In those areas, copper based high speed data is often the only viable option. There are a number of areas in the county where the copper

UNE based high speed data service we provide is the only option available. Unfortunately, census block information is generally not granular enough to show this.

3. VGCS provides voice and broadband service to residential and business customers, with broadband provided via xDSL, fiber-to-the-home, and fixed wireless. Our retail xDSL offer starts at \$49.00 for unlimited data usage at 5 Mbps download speed and 1.5 Mbps upload speed. Our highest speed offer via xDSL service is \$80.00/month for 25 Mbps download speed and 10 Mbps upload speed. These services are offered exclusively over unbundled DS0 loops and subloops. Our fiber-to-the-home service starts at 25 Mbps download speed and 5 Mbps upload speed at \$59.00/month. Our highest broadband offer is symmetrical 1 Gbps service for \$750/month. Over fixed wireless we offer speeds ranging from 25/5 Mbps to 100/50 Mbps. VGCS doesn't differentiate the pricing for residential or business customers.

4. VGCS is an official partner in public private partnership in the Rockbridge Area Network Authority, RANA. RANA was formed as a result of a BTOP grant and has built around 100 miles of middle mile fiber. In order to improve the reach of the middle mile network during the construction of this network VGCS has contributed to the build out of remote xDSL facilities around the county. Some of these facilities utilize RANA middle mile fiber to provide higher uplink speeds to the cabinets. As a result VGCS is able to offer true broadband speeds over UNE DS0 loops and subloops leased from Century Link.

5. Where and when possible, VGCS deploys its own facilities to serve customers by extending RANA middle mile network to end users. Approximately 300 of its customers are served over VGCS's own last-mile facilities, some of which are fiber and some of which are fixed wireless.

6. VGCS also purchases DS1 loops as well as DS1 transport UNEs, and UNE subloops for connection to our collocated remote cabinets when the ILEC has installed remote cabinet sites to shorten the loop length. Approximately 600 of our customers are served using DS0 loops or subloops.

7. VGCS uses DS0 UNE loops and subloops as a last mile to customer premise to provide broadband and VoIP service to end users. DS1 UNE's are used for backhaul transport between remote location and Central Office. These loops are bonded to provide higher backhaul bandwidth.

8. DS0 copper loops/subloops, and in particular the xDSL-conditioned copper loop, are critical inputs to VGCS's network. Unlike a commercial offering such as a special access service, DS0 copper loops do not include ILEC electronics that determine what services can be offered over the loop. Rather, VGCS can deploy its own electronics on either end of the DS0 loop. Some of our rural customers live beyond the reach of ADSL technology. Using a combination of DS0 subloops and proprietary technology, we are able to provide them with DSL service. Without DS0 sub loops, they would not be within reach of any currently available high speed data service. VGCS is not aware of any wholesale commercial offerings in our service area that would provide us with the same functionality as the DS0 loop/subloop.

9. The use of UNEs enables VGCS to gather sufficient market share to be able to deploy our own last mile facilities. Without the use of UNEs first, VGCS would not have been able to gather sufficient market share to justify its own builds.

10. The loss of access to UNEs would affect our ability to continue to provide service. There is no wholesale alternative to the DS0 loop or subloop. Special access alternatives for customers currently served by DS1 loops, and for transport, would be far more

expensive and those costs would have to be passed on to the customer if they can be sustained at all.

11. For other UNE loops such as DS1s and DS3s, commercial offerings like special access services or other business data services may be available. However, they are substantially more expensive. In our area, transitioning from UNE DS1 to Special Access T1 would more than double our backhaul cost. Due to the very rural footprint and small customer base of many areas we serve, the doubling of backhaul cost would make continuation of service cost prohibitive and would force us to discontinue service.

12. The loss of UNEs would have a serious negative impact on our customers. Some of our customer base does not have any other option for their broadband service. Approximately 150 households would likely lose any broadband option.

I declare the foregoing to be true and correct to the best of my knowledge, under penalty of perjury.

Signed  
\_\_\_\_\_  
Dusan Janjic

August 4, 2018  
\_\_\_\_\_  
Date